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“The DRAMP Project Relevant national laws of Member States on Diversion, Restorative and Mediation Procedures with a Commentary”

a cura di

Alessandra Lanciotti, Maria M. Pisani



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The DRAMP Project

Relevant national laws of Member States on Diversion, Restorative and Mediation Procedures with a Commentary

Alessandra Lanciotti and Maria M. Pisani

This publication was funded by the European Union's HERCULE III programme.
It contains a preliminary assessment on the state of art of national laws and procedures related to
diversion, restorative and mediation procedures in criminal matters of 16 European States.

The study was carried out by a team of experts and researchers within
the DRAMP European Project.

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Part One

Country Fact-Sheets on National Legislation on Diversion, Restorative and Mediation Procedures

AUSTRIA		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	<p style="text-align: center;">Law in original language</p> <p>1) Bundesgesetz vom 23. Jänner 1974 über die mit gerichtlicher Strafe bedrohten Handlungen (Strafgesetzbuch – StGB), StF: BGBl Nr. 60/1974; (insbesondere: §§ 165, 168f, 168g, 304, 307 StGB) RIS - Strafgesetzbuch - Bundesrecht konsolidiert, Fassung vom 10.01.2022 (bka.gv.at)</p> <p>2) Bundesgesetz vom 26. Juni 1958, betreffend das Finanzstrafrecht und das Finanzstrafverfahrensrecht (Finanzstrafgesetz – FinStrG.) StF: BGBl. Nr. 129/1958 idF BGBl. Nr. 21/1959 (insbesondere: §§ 35, 37, 40 FinStrG) RIS - Finanzstrafgesetz - Bundesrecht konsolidiert, Fassung vom 10.01.2022 (bka.gv.at)</p> <p>3) Bundesgesetz über die Verantwortlichkeit von Verbänden für Straftaten (Verbandsverantwortlichkeitsgesetz – VbVG) StF: BGBl. I Nr. 151/2005 RIS - Verbandsverantwortlichkeitsgesetz - Bundesrecht konsolidiert, Fassung vom 10.01.2022 (bka.gv.at)</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Federal Law of January 23, 1974, on Acts Punishable by Law (Criminal Code - CC), Federal Law Gazette no. 60/1974; (in particular: art 165, 168f, 168g, 304, 307 CC)</p> <p>2) Federal Law of 26 June 1958 on Financial Criminal Law and Financial Criminal Procedure (Financial Crimes Act - FCA.) Federal Law Gazette No. 129/1958, as amended by Federal Law Gazette No. 21/1959. (in particular: art 35, 37, 40 FCA)</p> <p>3) Federal Act on the Liability of Corporations for Criminal Offences (Corporate Criminal Liability Act - CCLA) Status: Federal Law Gazette I No. 151/2005</p>
	Law in original language	English translation of the title or topic



<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures) in criminal cases</p>	<p>1) Strafprozeßordnung 1975 (StPO), StF: BGBl. Nr. 631/1975 (insbesondere §§ 198 ff StPO) RIS - Strafprozeßordnung 1975 - Bundesrecht konsolidiert, Fassung vom 10.01.2022 (bka.gv.at)</p> <p>[2) Für Jugendliche/junge Erwachsene: Bundesgesetz vom 20. Oktober 1988 über die Rechtspflege bei Straftaten Jugendlicher und junger Erwachsener (Jugendgerichtsgesetz 1988 – JGG), StF: BGBl. Nr. 599/1988 (insbesondere § 7, 19 Abs 2 JGG) RIS - Jugendgerichtsgesetz 1988 - Bundesrecht konsolidiert, Fassung vom 11.01.2022 (bka.gv.at)</p>	<p>1) Code of Criminal Procedure 1975 (CCP), StF: Federal Law Gazette No. 631/1975 (in particular art 198 cont. CCP)</p> <p>[2) for juveniles and young adults: Federal Act of 20 October 1988 on the Administration of Justice in the Case of Offences Committed by Juveniles and Young Adults (Juvenile Courts Act 1988 - JGG), Federal Law Gazette No. 599/1988 (in particular: art 7, art 19 para 2 JCA)]</p>
<p>Other relevant rules</p>	<p>For further information see the national report</p>	

BELGIUM

<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p>	
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <p>1) LOI générale sur les douanes et accises, 18 Juillet 1977 (art. 213; art.263- 264; art. 281; art. 282; art. 285/4;;) http://www.ejustice.just.fgov.be/eli/loi/1977/07/18/1977071850/justel</p> <p>2) Code d’instruction criminelle, livre II, titre I, 19 Novembre 1808 (art.90 ter, para 2-4)</p> <p>3) Code Penal, 8 Juin 1867 (art. 246; 247; 248; 249; 250; 322; 323; 324 bis; 324 ter; 468; 470; 471; 472; 505) http://www.ejustice.just.fgov.be/img_1/pdf/1867/06/08/1867060850_F.pdf</p>	<p style="text-align: center;">English translation of title or topic</p> <p>1) General Law on Customs and Excise Duties No. 285/4 18.07.77 (art. 213; art. 263-264; art. 281; art. 282; art. 285/4;)</p> <p>2) Code of Criminal Procedure of Belgium, 17.11.1808 (art. 90 ter, para 2-4)</p> <p>3) Criminal Code (art. 246; 247; 248; 249; 250; 322; 323; 324 bis; 324 ter; 468; 470; 471; 472; 505)</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p style="text-align: center;">Law in original language</p> <p>1) Code d’instruction criminelle, livre II, titre I, 19 novembre 1808, (art. 90 ter para 2-4; art. 216; 216 bis; 216 ter; art 590; art. 595) http://www.ejustice.just.fgov.be/eli/loi/1808/11/19/1808111901/justel</p>	<p style="text-align: center;">English translation of title or topic</p> <p>1) Code of Criminal Procedure of Belgium, 17.11.1808 (art. 90 ter para 2-4; art. 216; art. 216 bis; 216 ter; 90 ter;; art. 590; art. 595)</p>
<p>Other relevant rules</p>	<ul style="list-style-type: none"> • Explanatory Memorandum Draft Bill modifying the Code of Criminal Procedure in order to introduce a legal regime for cooperating witnesses/offenders, <i>Parl.St.</i> 2017-18, nr. 3016/001, 49 • Circular COL 06/2016 (<i>Circulaire du Collège des procureurs généraux près les cours d’appel - Reconnaissance préalable de culpabilité</i>), Brussels, 10 March 2016 • Circular COL 08/2018 (<i>Circulaire commune du ministre de la Justice et du Collège des procureurs généraux relative aux directives en vue d’une harmonisation de l’application de l’article 216bis du Code d’instruction criminelle relatif à l’extinction de l’action publique moyennant le</i> 	



	<p>paiement d'une somme d'argent (transaction)), Brussels, 24 Mai 2018, 14</p> <ul style="list-style-type: none">• Circular COL 01/2021 (Circulaire commune du ministre de la justice, des ministres des entités fédérées et du collège des procureurs généraux près les cours d'appel - Extinction de l'action publique moyennant l'exécution de mesures et le respect de conditions), Brussels, 29 Janvier 2021.• Tax regularisation/voluntary disclosure program (until 31/12/2023) <p>For further information see the national report</p>
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BULGARIA

<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p>	
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <p>1) Наказателен кодекс [обн. ДВ. бр.26/1968 г.] Lex.bg - Закони, правилници, конституция, кодекси, държавен вестник, правилници по прилагане Например чл. 93(1), (15); 201; 202; 209(1); 212(1), (2), (3); 223(1), (2); 242(1)(b); 248a(2), (3), (5); 251; 253(1), (2); 253b; 254a(1); 255; 301; 302(1); 304; 304a; 308(1), (3); 313(1), (2); 316</p> <p>2) Наказателно-процесуален кодекс [обн. ДВ. бр. 86/2005 г.] Lex.bg - Закони, правилници, конституция, кодекси, държавен вестник, правилници по прилагане Например чл. 2(1); 46(3), (6), (7); 200; 213(1); 217b; 243(12); 420(1); §12 Доп. - ДВ, бр. 103 от 2020 г., доп. - ДВ, бр. 16 от 2021 г.</p> <p>3) Закон за мерките срещу изпирането на пари [Обн. Дв. бр. 27/27 март 2018г]</p> <p>4) Закон за лицата и семейството [обн. ДВ. бр. 120/2002-12-29]</p> <p>5) Закон за Сметната палата [обн. ДВ. бр. 7/2018-01-19]</p> <p>6) Закон за статистиката [обн. ДВ. бр. 7/2018-01-19]</p> <p>7) Закон за независимия финансов одит [обн. ДВ. бр. 17/2019-02-26]</p> <p>8) Закон за управление на средствата от [обн. ДВ. бр. 29/2019-04-08]</p> <p>9) Граждански процесуален кодекс [обн. ДВ. бр. 38/2019-05-10]</p> <p>10) Закон за държавния служител [обн. ДВ. бр. 79/2019-10-08]</p> <p>11) Кодекс на труда [обн. ДВ. бр. 79/2019-10-08]</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Criminal Code [OJ 26/1968] Especially articles: 93(1), (15); 201; 202; 209(1); 212(1), (2), (3); 223(1), (2); 242(1)(b); 248a(2), (3), (5); 251; 253(1), (2); 253b; 254a(1); 255; 301; 302(1); 304; 304a; 308(1), (3); 313(1), (2); 316</p> <p>2) Code of Criminal Procedure [OJ 86/2005] Especially articles: 2(1); 46(3), (6), (7); 200; 213(1); 217b; 243(12); 420(1); §12 of “ACT to Amend and Supplement the Criminal Procedure Code” (SG No. 103/2020)</p> <p>3) Law on measures against money laundering [OJ 27/27 March 2018]</p> <p>4) Law on Persons and the Family [OJ 120/2002-12-29]</p> <p>5) Court of Auditors Act [OJ 7/2018-01-19]</p> <p>6) Statistics Act [OJ 7/2018-01-19]</p> <p>7) Independent Financial Audit Act [OJ 17/2019-02-26]</p> <p>8) Law on the management of European Structural and Investment Funds [OJ 29/2019-04-08]</p> <p>9) Code of Civil Procedure [OJ 38/2019-05-10]</p> <p>10) Civil Servant Act [OJ 79/2019-10-08]</p> <p>11) Labour Code [OJ 79/2019-10-08]</p>

	<p>12) Закон за административните нарушения и наказания [обн. ДВ. бр. 83/2019-10-22]</p> <p>13) Закон за съдебната власт [обн. ДВ. бр. 83/2019-10-22]</p>	<p>12) Law on Administrative Offenses and Penalties [OJ 83/2019-10-22]</p> <p>13) Law on the Judiciary [OJ 83/2019-10-22]</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p style="text-align: center;">Law in original language</p> <p>1) Наказателно-процесуален кодекс [обн. ДВ. бр. 86/2005 г.] Lex.bg - Закони, правилници, конституция, кодекси, държавен вестник, правилници по прилагане Например чл. 24(1) ал. 9, (3), (5) ал. 3; 356–351; 369а–374; 375–380; 381–384а.</p> <p>2) Наказателен кодекс [обн. ДВ. бр.26/1968 г.] Lex.bg - Закони, правилници, конституция, кодекси, държавен вестник, правилници по прилагане Например чл. 78а(1); 254а(4); [205; 212б; 255(4); 255а(3); 308(6)]</p> <p>3) Закон за медиацията [обн. ДВ. бр.110/17 декември 2004 г.] https://www.bgmediation.com/biblioteka/normativni-aktove/zakon-za-mediatsiyata</p>	<p>English translation of the title or topic</p> <p>1) Code of Criminal Procedure [OJ 86/2005] Especially articles: 24(1) item 9, (3), (5) item 3; 356–361; 369а–374; 375–380; 381–384а.</p> <p>2) Criminal Code [OJ 26/1968] Especially articles: 78а(1); 254а(4); [and 205; 212б; 255(4); 255а(3); 308(6)].</p> <p>3) Mediation Law [OJ 110/17 December 2004]</p>
<p>Other relevant rules</p>	<ul style="list-style-type: none"> • ORDINANCE No 2 of 15 march 2007 of the Minister of Justice on the conditions and procedure for approval of organisations training mediators; on the requirements for training mediators; on the procedure for entry, write-off and deletion of mediators from the single register of mediators and on the procedural and ethical rules of conduct of the mediator [OJ 26/2007-03-27, amended by OJ 29/2011-04-08, amended by OJ 100/2017-12-15, amended by OJ 15/2020-02-21] https://www.bgmediation.com/biblioteka/normativni-aktove/naredba-po-chl-8-ot-zakona-za-mediatsiyata • ORDINANCE for administration of irregularities under the European Structural and Investment Funds [OJ 90/2018-10-30] <p>For further information see the national report.</p>	

CROATIA		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	Law in original language 1) Kazneni zakon, Narodne novine, br. 125/2011, 114/2012, 56/2015, 61/2015, 101/2017, 118/2018, 126/2019, 84/2021 (čl. 247., čl. 256., čl. 258., čl. 265., čl. 291., čl. 293., čl. 294., čl. 328., čl. 329.)	English translation of the title or topic 1) Criminal Code, Narodne novine (Official Gazette), no. 125/2011, 114/2012, 56/2015, 61/2015, 101/2017, 118/2018, 126/2019, 84/2021 (Art. 247, Art. 256, Art. 258, Art. 265, Art. 293, Art. 294, Art. 328, Art. 329)
Other relevant national provisions on ADR (diversion, restorative and mediation procedures)	Law in original language 1) Zakon o kaznenom postupku, Narodne novine, br. 152/2008, 76/2009, 80/2011, 121/2011, 91/2012, 143/2012, 56/2013, 145/2013, 152/2014, 70/2017, 126/2019, 126/2019, 80/2022 (čl. 206. c, čl. 206. d, čl. 206. e, čl. 360 – 364.) 2) Zakon o Uredu za suzbijanje korupcije i organiziranog kriminala, Narodne novine, br. 76/2009, 116/2010, 145/2010, 57/2011, 136/2012, 148/2013, 70/2017 (čl. 21., čl. 37. – 47.) 3) Zakon o pravosudnoj suradnji u kaznenim stvarima s državama članicama Europske unije, Narodne novine, br. 91/2010, 81/2013, 124/2013, 26/2015, 102/2017, 68/2018, 70/2019, 141/2020 (čl. 10.)	English translation of the title or topic 1) Criminal Procedure Act, Narodne novine, no. 152/2008, 76/2009, 80/2011, 121/2011, 91/2012, 143/2012, 56/2013, 145/2013, 152/2014, 70/2017, 126/2019, 126/2019, 80/2022, art. 206 c (Art. 206 d, Art. 206 e, Art. 360 – 364) 2) Law on the Office for the Suppression of Corruption and Organized Crime, Narodne novine, no. 76/2009, 116/2010, 145/2010, 57/2011, 136/2012, 148/2013, 70/2017 (Art. 21, Art. 37 – 47). 3) Act on Judicial Cooperation in Criminal Matters with Member States of the European Union, Narodne novine, br. 91/2010, 81/2013, 124/2013, 26/2015, 102/2017, 68/2018, 70/2019, 141/2020 (Art. 10)
Other relevant rules		<ul style="list-style-type: none"> • Državno odvjetništvo Republike Hrvatske, Naputak o pregovaranju i sporazumijevanju s otkrivenikom o priznanju krivnje i sankciji, O-2/09, 17. 2. 2010. (State's Attorney Office of the Republic of Croatia, Instruction on negotiation and agreement with the defendant on the admission of guilt and sanction, O-2/09, 17 February 2010). <p>For further information see the national report</p>

CYPRUS		
<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p>	
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <ol style="list-style-type: none"> 1) Ν. 69(I)/2020, «Ο περί της Καταπολέμησης, μέσω του Ποινικού Δικαίου, της Απάτης εις Βάρος των Οικονομικών Συμφερόντων της Ευρωπαϊκής Ένωσης Νόμος του 2020» [Ε.Ε. Παρ. Ι(Ι) / Αρ. 4762, 16.6.2020]. 2) Ν. 2(I)/2021, «Ο περί της Εφαρμογής του Κανονισμού (ΕΕ) 2017/1939 του Συμβουλίου, της 12ης Οκτωβρίου 2017, σχετικά με την Εφαρμογή Ενισχυμένης Συνεργασίας για τη Σύσταση της Ευρωπαϊκής Εισαγγελίας, Νόμος του 2021» [Ε.Ε. Παρ. Ι(Ι) / Αρ. 4802, 27.1.2021]. 3) <i>Ποινικός Κώδικας*</i> – «Ο περί Ποινικού Κώδικα Νόμος» (ΚΕΦ. 154), ιδίως άρθρα 100 επ., 255 επ., 300 επ., 331 επ. 4) Ν. 188(I)/2007*, «Ο περί της Παρεμπόδισης και Καταπολέμησης της Νομιμοποίησης Εσόδων από Παράνομες Δραστηριότητες Νόμος του 2007» [Ε.Ε., Παρ. Ι(Ι), Αρ. 4154, 31.12.2007]. 5) Ν. 82/1967*, «Ο περί Τελωνείων και Φόρων Καταναλώσεως Νόμος του 1967» [Ε.Ε., Παρ. Ι, Αρ. 619, 30.12.1967]. <p>* όπως ισχύει σήμερα, μετά από διαδοχικές τροποποιήσεις</p>	<p style="text-align: center;">English translation of the title or topic</p> <ol style="list-style-type: none"> 1) Statute No. 69(I)/2020, «Statute of 2020 concerning the Fight, by means of Criminal Law, against Fraud to the European Union’s Financial Interests» [Official Gazette, Sec. I(I) / No. 4762, 16.6.2020]. 2) Statute No. 2(I)/2021, “Statute of 2021 concerning the Implementation of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office” [Official Gazette, Sec. I(I) / No. 4802, 27.1.2021]. 3) <i>Criminal Code*</i> – “Statute concerning the Criminal Code” (Ch. 154), especially articles 100 et seq., 255 et seq., 300 et seq., 331 et seq. 4) Statute No. 188(I)/2007*, “Statute of 2007 concerning the Prevention and Suppression of Money Laundering” [Official Gazette, Sec. I(I), No. 4154, 31.12.2007]. 5) Statute No. 82/1967*, “Statute of 1967 concerning Customs and Duties” [Official Gazette, Sec. I, No. 619, 30.12.1967]. <p>* as applicable following numerous amendments since its enactment</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p style="text-align: center;">Law in original language</p> <ol style="list-style-type: none"> 1) Σύνταγμα της Κυπριακής Δημοκρατίας, άρθρο 113(2). 2) Κώδικας Ποινικής Δικονομίας* – «Ο περί Ποινικής Δικονομίας Νόμος (ΚΕΦ. 155)», ιδίως άρθρα 3, 79, 154. 3) <i>Ποινικός Κώδικας*</i> – «Ο περί Ποινικού Κώδικα Νόμος» (ΚΕΦ. 154), ιδίως άρθρο 3. 	<p style="text-align: center;">English translation of the title or topic</p> <ol style="list-style-type: none"> 1) Constitution of the Republic of Cyprus, article 113(2). 2) Code of Criminal Procedure* – “Statute concerning Criminal Procedure”, especially articles 3, 79, 154. 3) <i>Criminal Code*</i> – “Statute concerning the Criminal Code” (Ch. 154), especially article 3.



	* όπως ισχύει σήμερα, μετά από διαδοχικές τροποποιήσεις	* as applicable following numerous amendments since its enactment
Other relevant rules (indicatively)	<ul style="list-style-type: none">• Statute No. 205(I)/2012, “Statute of 2012 concerning Administrative Cooperation in the Field of Taxation” [Official Gazette, Sec. I, No. 4373, 28.12.2012].• Statute No. 1/1990, “Statute of 1990 concerning Public Service” [Official Gazette, Sec. I, No. 2474, 27.1.1990], article 69bis.• Statute No. 73(I)/2016, “Statute of 2016 concerning the Process of Public Tenders and pertinent matters” [Official Gazette, Sec. I(I), No. 4565, 28.4.2016], article 57. <p>For further information see the national report</p>	

CZECH REPUBLIC		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	Law in original language Zákon č. 40/2009 Sb., trestní zákoník https://www.zakonyprolidi.cz/cs/2009-40/zneni-20220201	English translation of the title or topic (The English text is not an official source of the government of the Czech Republic) 1) Code of Criminal Procedure of the Czech Republic, No. 141/1961 Coll., Part. 4, Chapter Twenty-five https://www.legislationline.org/download/id/6371/file/Czech%20Republic_CPC_1961_am2012_en.pdf
Other relevant national provisions on ADR (diversion, restorative and mediation procedures)	Law in original language 1) Zákon č. 141/1961 Sb., o trestním řízení soudním (trestní řád) https://www.zakonyprolidi.cz/cs/1961-141 2) Zákon č. 2018/2013 Sb. o odpovědnosti mládeže za protiprávní činy a o soudnictví ve věcech mládeže a o změně některých zákonů (zákon o soudnictví ve věcech mládeže) https://www.zakonyprolidi.cz/cs/2003-218?text=č.+218%2F2003	English translation of the title or topic 1) Code of Criminal Procedure of the Czech Republic, No. 141/1961 (Sections 81-87 Ref. 3; Sections 175a and 175b; Sections 307-308 Ref.4; Sections 309-314 Ref. 4; Sections 314e -314g Ref. 4;) https://www.legislationline.org/download/id/6371/file/Czech%20Republic_CPC_1961_am2012_en.pdf 2) Act No. 218/ 2003 Coll. on Youth Responsibility for Unlawful Acts and Judiciary in Suits of Youth and Amendments to Some Acts (Acts on Judiciary in Suits of Youth) (Section 7) https://eudeska.justice.cz/Lists/EUD/Attachments/1737/MSP-751_2018-OSV-OSV%20-%20p%C5%99%C3%ADloha.pdf
Other relevant rules		For further information see the national report

ESTONIA		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	<p style="text-align: center;">Law in original language</p> <p>1) Kriminaalmenetluse seadustik Vastu võetud 12.02.2003 RT I 2003, 27, 166 jõustumine 01.07.2004 (203) https://www.riigiteataja.ee/akt/122122021045</p>	<p style="text-align: center;">English Translation of the title or topic</p> <p>1) Code of Criminal Procedure, Passed 12.02.2003 RT I2003, 27, 166 Entry into force 01.07.2004 (Section 203) https://www.riigiteataja.ee/en/eli/e/512012021001/consolide/current</p>
Other relevant national provisions on ADR (diversion, restorative and mediation procedures)	<p style="text-align: center;">Law in original language</p> <p>1) Kriminaalmenetluse seadustik Vastu võetud 12.02.2003 RT I 2003, 27, 166 jõustumine 01.07.2004 (203) https://www.riigiteataja.ee/akt/122122021045</p>	<p style="text-align: center;">English Translation of the title or topic</p> <p>1) Code of Criminal Procedure, Passed 12.02.2003 RT I2003, 27, 166 Entry into force 01.07.2004 (Section 203) https://www.riigiteataja.ee/en/eli/e/512012021001/consolide/current</p>
Other relevant rules	For further information see the national report	

FINLAND		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	Law in original language 1) Rikoslaki (39/1889)	English translation of the title or topic 1) Criminal Code of Finland (39/1889; amendments up to 766/2015 included) (Chapters 6; 8) https://www.finlex.fi/fi/laki/kaannokset/1889/en18890039_20150766.pdf (unofficial translation)
Other relevant national provisions on ADR (diversion, restorative and mediation procedures)	Law in original language 1) Laki oikeudenkäynnistä rikosasioissa (689/1997) 2) Rikoslaki (39/1889) 3) Esitutkintalaki (805/2011) 4) Laki rikosasioiden ja eräiden riitaasioiden sovittelusta (1015/2005) 5) Laki riita-asioiden sovittelusta ja sovinnon vahvistamisesta yleisissä tuomioistuimissa (394/2011)	English translation of the title or topic 1) Criminal Procedure Act (689/1997; amendments up to 733/2015 included) (Chapter 1, section 8-12; Chapter 5b) https://www.finlex.fi/fi/laki/kaannokset/1997/en19970689_20150733.pdf (unofficial translation) 2) Criminal Code of Finland (39/1889; amendments up to 766/2015 included) (Chapters 6; 8) https://www.finlex.fi/fi/laki/kaannokset/1889/en18890039_20150766.pdf (unofficial translation) 3) Criminal Investigation Act (805/2011; amendments to 736/2015 included) (Chapter 3, section 10a) https://www.finlex.fi/fi/laki/kaannokset/2011/en20110805_20150736.pdf (unofficial translation) 4) Act on Conciliation in Criminal and Certain Civil Cases (1015/2005) https://www.finlex.fi/fi/laki/kaannokset/2005/en20051015.pdf (unofficial translation) 5) Act on mediation in civil matters and confirmation of settlements in general courts (394/2011) https://www.finlex.fi/fi/laki/kaannokset/2011/en20110394.pdf (unofficial translation)



Other relevant rules	<p>Guidelines given by the Office of the Prosecutor General in original language, see: VKS:2015:6 Ohje syyteneuvottelua koskevan lainsäädännön soveltamisesta https://syyttajalaitos.fi/vks-2015-6-ohje-syyteneuvottelua-koskevan-lainsaadannon-soveltamisesta ; Muistio syyteneuvottelua koskevan lainsäädännön soveltamisesta https://syyttajalaitos.fi/documents/11121156/13629702/26-31-14muistioliitteet.pdf/c9f8dd8a-9f11-879e-58a8-f42034a52208/26-31-14muistioliitteet.pdf?t=1569856676000</p> <p>For further information see the national report</p>
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FRANCE		
<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p> <p>https://www.ejn-crimjust.europa.eu/ejn/EJN_Library_StatusOfImp_ByCat/EN/154</p> <p>1) Art. 202, Loi n° 2019-486 du 22 mai 2019 relative à la croissance et la transformation des entreprises, NOR : ECOT1810669L, JORF n°0119 du 23 mai 2019</p> <p>2) Ordonnance n° 2019-963 du 18 septembre 2019 relative à la lutte contre la fraude portant atteinte aux intérêts financiers de l'Union européenne au moyen du droit pénal, NOR : JUSD1918088R, JORF n°0218 du 19 septembre 2019</p> <p>(Crée Code pénal - art. 113-14 (V); Modifie Code de procédure pénale - art. 689-8 (V); Créé Code pénal - art. 314-1-1 (M) ; Modifie Code pénal - art. 432-11 (M) ; Code pénal - art. 432-15 (M) ; Code pénal - art. 433-1 (M) ; Code pénal - art. 433-4 (M) ; Code pénal - art. 435-1 (M) ; Code pénal - art. 435-3 (M); Modifie Code des douanes - art. 370 (V); Code des douanes - art. 412 (M); Créé Code des douanes - art. 414-2 (V); Modifie Code des douanes - art. 415 (V); Code des douanes - art. 426 (M); Code des douanes - art. 432 bis (V); Code des douanes - art. 65 A bis (V); Modifie Code de procédure pénale Art. 804 ; Code pénal Art. 711-1)</p>	<p>1) Art. 202, Law No. 2019-486 of May 22nd 2019, on the growth and the transformation of enterprises, NOR: ECOT1810669L, Official Gazette No. 0119 May 23rd, 2019</p> <p>2) Ordinance No. 2019-963 of September 18th 2019, on the fight against fraud to the Union's financial interests by means of Criminal Law, NOR: JUSD1918088R, Official Gazette No. 0218 September 19th, 2019</p>
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <p>1) Loi n° 2020-1672 du 24 décembre 2020 relative au Parquet européen, à la justice environnementale et à la justice pénale spécialisée, NOR : JUSX1933222L, JORF n°0312 du 26 décembre 2020</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Law No. 2020-1672 of December 24th 2020, on the Establishment of the European Public Prosecutor's Office, the environmental justice and the special criminal justice, NOR: JUSX1933222L, Official</p>



	<p>(Crée Code de procédure pénale - Chapitre II : Procédure (V) ; Code de procédure pénale - Chapitre III : De l'articulation des compétences... (V) ; Code de procédure pénale - Chapitre Ier : Compétence et attributions des p... (V) ; Code de procédure pénale - Section 1 : Saisine du Parquet européen (V) ; Code de procédure pénale - Section 2 : Cadres procéduraux (V) ; Code de procédure pénale - Section 3 : Dispositions spécifiques à la procé... (V) ; Code de procédure pénale - Sous-section 1 : Actes et décisions relevant de... (V) ; Code de procédure pénale - Sous-section 2 : Des droits des parties (V) ; Code de procédure pénale - Sous-section 3 : De la clôture de la procédure (V) ; Code de procédure pénale - Titre X bis : Du parquet européen (V) ; Code de procédure pénale - art. 696-108 (V) ; Code de procédure pénale - art. 696-109 (V) ; Code de procédure pénale - art. 696-110 (V) ; Code de procédure pénale - art. 696-111 (M) ; Code de procédure pénale - art. 696-112 (V) ; Code de procédure pénale - art. 696-113 (V) ; Code de procédure pénale - art. 696-114 (M) ; Code de procédure pénale - art. 696-115 (V) ; Code de procédure pénale - art. 696-116 (V) ; Code de procédure pénale - art. 696-117 (V) ; Code de procédure pénale - art. 696-118 (V) ; Code de procédure pénale - art. 696-119 (V) ; Code de procédure pénale - art. 696-120 (V) ; Code de procédure pénale - art. 696-121 (V) ; Code de procédure pénale - art. 696-122 (V) ; Code de procédure pénale - art. 696-123 (V) ; Code de procédure pénale - art. 696-124 (V) ; Code de procédure pénale - art. 696-125 (V) ; Code de procédure pénale - art. 696-126 (V) ; Code de procédure pénale - art. 696-127 (V) ; Code de procédure pénale - art. 696-128 (V) ; Code de procédure pénale - art. 696-129 (V) ; Code de procédure pénale - art. 696-130 (V) ; Code de procédure pénale - art. 696-131 (V) ; Code de procédure pénale - art. 696-132 (V) ; Code de procédure pénale - art. 696-133 (V) ; Code de procédure pénale - art. 696-134 (V) ; Code de procédure pénale - art. 696-135 (V) ; Code de procédure pénale - art. 696-136 (V) ; Code de procédure pénale - art. 696-137 (V) ;</p> <p>Modifie Code de procédure pénale Art. 694-20 ;</p> <p>Crée Code de l'organisation judiciaire - art. L211-19 (V) ; Code de l'organisation judiciaire - art. L212-6-1 (V) ; Code de l'organisation judiciaire - art. L213-13 (V) ; Code de l'organisation judiciaire - art. L312-8 (V) ;</p> <p>Crée Code des douanes - Section 1 bis : Du Parquet européen (V) ; Code des douanes - art. 344-1 (M) ; Code des douanes - art. 344-2</p>	Gazette No. 0312 December 26 th , 2020
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	<p>(V) ; Code des douanes - art. 344-3 (V) ; Code des douanes - art. 344-4 (V) ; Modifie Code des douanes - art. 358 (V))</p> <p>2) Art. 36, I§, 2°, Loi n° 2018-898 du 23 octobre 2018 relative à la lutte contre la fraude, NOR : CPAE1805937, JORF n°0246 du 24 octobre 2018 https://www.legifrance.gouv.fr/jorf/id/JORFT-EXT000037518803/ (Modifie Art. L228, Livre des procédures fiscales)</p> <p>3) Code général des impôts (Artt. 1741 – 1753 bis B) https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006069577/LEGISCTA000006147294/#LEGISCTA000006147294</p> <p>4) Livre des procédures fiscales (Artt. L212-L233 ; L235-L246; R*228-1- R*228-6; L283 A, II§, 2° - L283 F) https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006069583/2022-03-13/</p>	<p>2) Art. 36, paragraph I, 2°, Law No. 2018-898 of October 23th 2018 on the fight against fraud, NOR : CPAE1805937, Official Gazette No. 0246 October 24th 2018 (Reforming the art. L228 of the Tax procedures handbook)</p> <p>3) General code of taxation (Artt. 1741-1753 B)</p> <p>4) Tax procedures handbook (Art. L212-L33 ; L235-L246; R*228-1- R*228-6; L283 A, paragraph II, 2° - L283 F)</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p style="text-align: center;">Law in original language</p> <p>1) Art. 149, I§, 3ème al., II§, Loi n° 2019-1479 du 28 décembre 2019 de finances pour 2020, NOR : CPAX1925229L, JORF n°0302 du 29 décembre 2019 (Modifie Art. L228, Livre des procédures fiscales) https://www.legifrance.gouv.fr/jorf/id/JORF-ARTI000039684086</p> <p>2) Code de procédure pénale (Art. 41-1-2) (modifié par l’art. 14 de la Loi n° 2020-1672 du 24 décembre 2020 relative au Parquet européen, à la justice environnementale et à la justice pénale spécialisée, NOR : JUSX1933222L, JORF n°0312 du 26 décembre 2020) https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000042779529</p> <p>3) Code général des impôts (Artt. 1728 – 1740 D ; 1755-1756) https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006069577/LEGISCTA000006133936/2022-03-13/ https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006069577/LEGISCTA000006133936/2022-03-13/</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Art. 149, paragraph I, subparagraph 3, paragraph II, Law No. 2019-1479 of December 28th 2019, Finance Act of 2020, NOR : CPAX1925229L, Official Gazette No. 0302, December 29th 2019 (Reforming the art. L228 of the Tax procedures handbook)</p> <p>2) Criminal procedure code (Art. 41-1-2) (reformed by the Law No. 2020-1672 of December 24th 2020, on the Establishment of the European Public Prosecutor’s Office, the environmental justice and the special criminal justice, NOR : JUSX1933222L, Official Gazette No. 0312 December 26th, 2020</p> <p>3) General code of taxation, (Art. 1728- 1740 D; 1755 -1756)</p>



	<p>4) Livre de procédures fiscales (Artt. L80 D - L80 E; L247-251 A) https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006069583/LEGISCTA00006163094/#LEGISCTA000006163094 https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006069583/LEGISCTA00006147338/#LEGISCTA000006147338</p>	<p>4) Tax procedures handbook (Art. L80 D -L80 E; L47 -251 A)</p>
<p>Other relevant rules</p>	<ul style="list-style-type: none">• Compte rendu du Conseil de ministres du 18 septembre 2019 https://www.gouvernement.fr/conseil-des-ministres/2019-09-18/lutte-contre-la-fraude-portant-atteinte-aux-interets-financi• Rapport au Président de la République relatif à l'ordonnance n° 2019-963 du 18 septembre 2019 relative à la lutte contre la fraude portant atteinte aux intérêts financiers de l'Union européenne au moyen du droit pénal, NOR : JUSD1918088P, JORF n°0218 du 19 septembre 2019 https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000039110163/• Conseil d'État, AVIS SUR UN PROJET DE LOI relatif au Parquet européen et à la justice pénale spécialisée, 23 janvier 2020, NOR : JUSX1933222L/Verte-2 http://www.senat.fr/leg/pjl19-283-avis-ce.pdf• Étude d'impact Projet de loi relatif au Parquet européen et à la justice pénale spécialisée, 29 janvier 2020, NOR : JUSX1933222L/Bleue-1 https://www.senat.fr/leg/etudes-impact/pjl19-283-ei/pjl19-283-ei.html• Compte rendu du Conseil de ministres du 29 janvier 2020 https://www.gouvernement.fr/conseil-des-ministres/2020-01-29/parquet-europeen-et-justice-penale-specialisee• Commission des affaires européennes, Rapport d'information portant observation sur le projet de loi relatif au Parquet européen et à la justice spécialisée (n° 2731), présenté par Mme Liliana Tanguy, Députée, 18 novembre 2020 https://www.assemblee-nationale.fr/dyn/opedata/RINFANR5L15B3585.html• Lettre de la DAJ n° 309 du 16/01/2021 https://kiosque.bercy.gouv.fr/alyas/search/print/lettre-daj/15090• Décret n° 2021-694 du 31 mai 2021 relatif au Parquet européen, NOR : JUSD2115808D, JORF n°0125 du 1 juin 2021 https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043567430	



	<ul style="list-style-type: none">• Circulaire de la Direction des affaires criminelles et des grâces du ministère de la Justice ayant pour objet l'entrée en fonction opérationnelle du parquet européen, 3 juin 2021, NOR : JUSD2116939C, BO n° 2021-06 du 30 juin 2021 http://www.textes.justice.gouv.fr/bulletin-officiel-10085/bulletin-officiel-n-2021-06-du-30-juin-2021-33938.html• Dossier législatif <i>Ordonnance n° 2019-963 du 18 septembre 2019 relative à la lutte contre la fraude portant atteinte aux intérêts financiers de l'Union européenne au moyen du droit pénal</i> https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000039114461/• Dossier législatif <i>Loi n° 2020-1672 du 24 décembre 2020 relative au Parquet européen, à la justice environnementale et à la justice pénale spécialisée</i> https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000041496243/ <p>For further information see the national report</p>
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GERMANY		
<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p>	
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <p>1) Gesetz zur Stärkung des Schutzes der finanziellen Interessen der Europäischen Union (EU-Finanzschutzstärkungsgesetz - EUFinSchStG) vom 19. Juni 2019 (BGBl. I S. 844) EUFinSchStG - Gesetz zur Stärkung des Schutzes der finanziellen Interessen der Europäischen Union (gesetze-im-internet.de)</p> <p>2) Strafgesetzbuch in der Fassung der Bekanntmachung vom 13. November 1998 (BGBl. I S. 3322), das zuletzt durch Artikel 2 des Gesetzes vom 22. November 2021 geändert worden ist StGB - Strafgesetzbuch (gesetze-im-internet.de)</p> <p>3) Abgabenordnung in der Fassung der Bekanntmachung vom 1. Oktober 2002 (BGBl. I S. 3866; 2003 I S. 61), die zuletzt durch Artikel 33 des Gesetzes vom 5. Oktober 2021 (BGBl. I S. 4607) geändert worden ist AO - Abgabenordnung (gesetze-im-internet.de)</p> <p>4) Gesetz zur Bekämpfung internationaler Bestechung vom 10. September 1998 (BGBl. 1998 II S. 2327), das durch Artikel 5 des Gesetzes vom 20. November 2015 (BGBl. I S. 2025) geändert worden ist IntBestG - Gesetz zu dem Übereinkommen vom 17. Dezember 1997 über die Bekämpfung der Bestechung ausländischer Amtsträger im internationalen Geschäftsverkehr (gesetze-im-internet.de)</p> <p>5) Gesetz über Ordnungswidrigkeiten in der Fassung der Bekanntmachung vom 19. Februar 1987 (BGBl. I S. 602), das zuletzt durch Artikel 31 des Gesetzes vom 5. Oktober 2021 (BGBl. I S. 4607) geändert worden ist OWiG - Gesetz über Ordnungswidrigkeiten (gesetze-im-internet.de)</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Act to Strengthen the Protection of the Financial Interests of the European Union (EU Financial Protection Strengthening Act - EUFPSA) of June 19, 2019 (BGBl. I p. 844)</p> <p>2) Criminal Code in the version published on November 13, 1998 (Federal Law Gazette I p. 3322), as last amended by Article 2 of the Act of November 22, 2021.</p> <p>3) German Fiscal Code in the version published on October 1, 2002 (BGBl. I p. 3866; 2003 I p. 61), as last amended by Article 33 of the Act of October 5, 2021 (BGBl. I p. 4607)</p> <p>4) Act on Combating International Bribery of September 10, 1998 (Federal Law Gazette 1998 II p. 2327), as amended by Article 5 of the Act of November 20, 2015 (Federal Law Gazette I p. 2025)</p> <p>5) German Administrative Offences Act (Gesetz über Ordnungswidrigkeiten) in the version promulgated on February 19, 1987 (BGBl. I p. 602), as last amended by Article 31 of the Act of October 5, 2021 (BGBl. I p. 4607)</p>

Other relevant national provisions on ADR (diversion, restorative and mediation procedures) in criminal cases	Law in original language	English translation of the title or topic
Other relevant rules For further information see the national report	<p>1) Strafprozeßordnung in der Fassung der Bekanntmachung vom 7. April 1987 (BGBl. I S. 1074, 1319), die zuletzt durch Artikel 1 des Gesetzes vom 21. Dezember 2021 (BGBl. I S. 5252) geändert worden ist (insbesondere: § 153a° StPO) StPO - Strafprozeßordnung (gesetze-im-internet.de)</p> <p>[2) Für Jugendliche/junge Erwachsene: Jugendgerichtsgesetz in der Fassung der Bekanntmachung vom 11. Dezember 1974 (BGBl. I S. 3427), das zuletzt durch Artikel 21 des Gesetzes vom 25. Juni 2021 (BGBl. I S. 2099) geändert worden ist (insbesondere §§ 45, 47 JGG) JGG - Jugendgerichtsgesetz (gesetze-im-internet.de)]</p>	<p>1) Code of Criminal Procedure in the version promulgated on April 7, 1987 (Federal Law Gazette I p. 1074, 1319), as last amended by Article 1 of the Act of December 21, 2021 (Federal Law Gazette I p. 5252) (in particular: art 153a CCP)</p> <p>[2) For juveniles/young adults: Juvenile Court Act in the version promulgated on December 11, 1974 (BGBl. I p. 3427), last amended by Article 21 of the Act of June 25, 2021 (BGBl. I p. 2099). (in particular art 45, 47 JCA)]</p>
		For juveniles/young adults: Diversionsrichtlinien - DVJJ

GREECE		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	<p style="text-align: center;">Law in original language</p> <ol style="list-style-type: none"> 1) Ν. 4689/2020, «Ενσωμάτωση στην ελληνική νομοθεσία των Οδηγιών (ΕΕ) 2016/800, 2017/1371, 2017/541, 2016/1919, 2014/57/ΕΕ, κύρωση του Μνημονίου Διοικητικής Συνεργασίας μεταξύ του Υπουργείου Δικαιοσύνης της Ελληνικής Δημοκρατίας και του Υπουργείου Δικαιοσύνης και Δημόσιας Τάξεως της Κυπριακής Δημοκρατίας, τροποποιήσεις του ν. 3663/2008 (Α΄ 99) προς εφαρμογή του Κανονισμού (ΕΕ) 2018/1727 και άλλες διατάξεις» [ΦΕΚ Α΄ 103/27.5.2020], άρθρα 21-28. 2) Ν. 4786/2021, «Εφαρμογή διατάξεων του Κανονισμού (ΕΕ) 2017/1939 του Συμβουλίου της 12ης Οκτωβρίου 2017 σχετικά με την εφαρμογή ενισχυμένης συνεργασίας για τη σύσταση της Ευρωπαϊκής Εισαγγελίας, ρυθμίσεις για τη λειτουργία των δικαστηρίων και άλλες διατάξεις του Υπουργείου Δικαιοσύνης» [ΦΕΚ Α΄ 43/23.3.2021]. 3) Ποινικός Κώδικας 2019* – Ν. 4619/2019, «Κύρωση του Ποινικού Κώδικα» [ΦΕΚ Α΄ 95/11.6.2019]: ιδίως άρθρα 159, 159Α, 216 [παρ. 4], 242 [παρ. 5], 235, 236, 237, 237Β, 374 [παρ. 2], 375, 386, 386Α, 386Β, 390. 4) Ν. 4557/2018*, «Πρόληψη και καταστολή της νομιμοποίησης εσόδων από εγκληματικές δραστηριότητες και της χρηματοδότησης της τρομοκρατίας (ενσωμάτωση της Οδηγίας 2015/849/ΕΕ) και άλλες διατάξεις» [ΦΕΚ Α΄ 139/30.7.2018]. 	<p style="text-align: center;">English translation of the title or topic</p> <ol style="list-style-type: none"> 1) Statute No. 4689/2020, “Transposition of Directives (EU) 2016/800, 2017/1371, 2017/541, 2016/1919, 2014/57/EE, ratification of the Memorandum of Administrative Cooperation between the Ministry of Justice of the Hellenic Republic and the Ministry of Justice and Public Order of the Republic of Cyprus, amendments to Statute No. 3663/2008 (A 99) implementing Regulation (EU) 2018/1727 and other provisions” [Official Gazette A 103/27.5.2020], articles 21-28. 2) Statute No. 4786/2021, “Implementation of the provisions of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office, provisions concerning the proper function of courts and other provisions of the Ministry of Justice” [Official Gazette A 43/23.3.2021]. 3) Criminal Code of 2019* – Statute No. 4619/2019, “Ratification of the Criminal Code” [Official Gazette A 95/11.6.2019]: especially articles 159, 159bis, 216 [para. 4], 242 [para. 5], 235, 236, 237, 237ter, 374 [para. 2], 375, 386, 386bis, 386ter, 390. 4) Statute No. 4557/2018*, “Prevention and repression of money laundering and financing of terrorism (transposition of Directive 2015/849/EU) and other provisions” [Official Gazette A 139/30.7.2018].

	<p>5) Εθνικός Τελωνειακός Κώδικας 2001* – Ν. 2960/2001 [ΦΕΚ Α΄ 265/22.11.2001].</p> <p>* όπως ισχύει σήμερα, μετά από διαδοχικές τροποποιήσεις</p>	<p>5) National Code of Customs and Duties of 2001* – Statute No. 2960/2001 [Official Gazette A 265/22.11.2001].</p> <p>* as applicable following numerous amendments since its enactment</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p>Law in original language</p> <ol style="list-style-type: none"> 1) Κώδικας Ποινικής Δικονομίας 2019* – Ν. 4620/2019, «Κύρωση του Κώδικα Ποινικής Δικονομίας» [ΦΕΚ Α΄ 96/11.6.2019]: ιδίως άρθρα 44-50, 301-304. 2) Ποινικός Κώδικας 2019* – Ν. 4619/2019, «Κύρωση του Ποινικού Κώδικα» [ΦΕΚ Α΄ 95/11.6.2019]: ιδίως άρθρα 263Α, 381 παρ. 2-4, 405 παρ. 2-3. 3) Ν. 4689/2020, «Ενσωμάτωση στην ελληνική νομοθεσία των Οδηγιών (ΕΕ) 2016/800, 2017/1371, 2017/541, 2016/1919, 2014/57/ΕΕ, κύρωση του Μνημονίου Διοικητικής Συνεργασίας μεταξύ του Υπουργείου Δικαιοσύνης της Ελληνικής Δημοκρατίας και του Υπουργείου Δικαιοσύνης και Δημόσιας Τάξεως της Κυπριακής Δημοκρατίας, τροποποιήσεις του ν. 3663/2008 (Α΄ 99) προς εφαρμογή του Κανονισμού (ΕΕ) 2018/1727 και άλλες διατάξεις» [ΦΕΚ Α΄ 103/27.5.2020], άρθρο 24 παρ. 5. <p>* όπως ισχύει σήμερα, μετά από διαδοχικές τροποποιήσεις</p>	<p>English translation of the title or topic</p> <ol style="list-style-type: none"> 1) Code of Criminal Procedure of 2019* – Statute No. 4620/2019, “Ratification of the Code of Criminal Procedure” [Official Gazette A 96/11.6.2019]: especially articles 44-50, 301-304. 2) Criminal Code of 2019* – Statute No. 4619/2019, “Ratification of the Criminal Code” [Official Gazette A 95/11.6.2019]: especially articles 263bis, 381 paras. 2-4, 405 paras.2-3. 3) Statute No. 4689/2020, “Transposition of Directives (EU) 2016/800, 2017/1371, 2017/541, 2016/1919, 2014/57/EE, ratification of the Memorandum of Administrative Cooperation between the Ministry of Justice of the Hellenic Republic and the Ministry of Justice and Public Order of the Republic of Cyprus, amendments to Statute No. 3663/2008 (A 99) implementing Regulation (EU) 2018/1727 and other provisions” [Official Gazette A 103/27.5.2020], article 24 para. 5. <p>* as applicable following numerous amendments since its enactment</p>
<p>Other relevant rules (indicatively)</p>	<ul style="list-style-type: none"> • Statute No. 4174/2013, “Tax processes and other provisions” [Official Gazette A 170/26.7.2013]. • Presidential Decree No. 135/2013, “Transposition of Council Framework-Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (OJ L 386, 29.12.2006, p. 89)” [Official Gazette A 209/13.9.2013]. • Statute No. 4624/2019, “Data Protection Authority, measures to implement Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), transposition of Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 and other provisions” [Official Gazette A 137/29.8.2019]. <p>Repealed Statutes concerning substantive criminal law (which might become relevant, as the case may be, by virtue of intertemporal law rules):</p>	

	<ul style="list-style-type: none">• Statute No. 2803/2000, “Ratification of the Convention concerning the protection of the European Communities’ financial interests and the pertinent Protocols” [Official Gazette A 170/26.7.2013].• Criminal Code of 1950 – Statute No. 1492/1950, “Ratification of the Criminal Code” [Official Gazette 182/A/1950]. <p>Repealed Statutes concerning criminal procedure:</p> <ul style="list-style-type: none">• Statute No. 4312/2014, “Ρύθμιση δεσμευμένων ή κατασχεμένων χρηματικών απαιτήσεων και μετρητών και άλλες διατάξεις” [Official Gazette A 260/12.12.2014].• Code of Criminal Procedure of 1950 – Statute No. 1493/1950 [Official Gazette 182/A/1950]. <p>For further information see the national report</p>
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HUNGARY		
<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>- 2008. évi XXVI. törvény a jogi személlyel szemben alkalmazható büntetőjogi intézkedésekről szóló 2001. évi CIV. törvény módosításáról; - 2017. évi CVI. törvény a Büntető Törvénykönyv módosításáról; - 2020. évi XLIII. törvény a büntetőeljárásról szóló törvény módosításáról</p>	<p>- Act XXVI of 2008 amending the Act CIV of 2001 on Measures Applicable against Legal Person; - Act CVI of 2017 amending the Criminal Code; - Act XLIII of 2020 amending the Criminal Procedure Code</p>
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p>Büntető Törvénykönyv (Btk.) 374. Gazdasági csalás; 376. § Hűtlen kezelés; 396. § Költségvetési csalás; 397. § A költségvetési csaláshoz kapcsolódó felügyeleti vagy ellenőrzési kötelezettség elmulasztása (speciális vezetői felelősség); 399-400. § Pénzmosás; 401. § Pénzmosáshoz kapcsolatos bejelentési kötelezettség elmulasztása.</p>	<p>Hungarian Criminal Code (HCC) art 374. Economic Fraud; art 376. Misappropriation of Funds; art 396. Budget-fraud; art 397. Failure to comply with supervisory or control obligation related to budget-fraud; art 399-400. Money-laundering; art 401. Failure to comply with notification obligation related to money-laundering.</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p>(1) A Büntető Törvénykönyv 29. §-a: Tevékeny megbánás, mint büntethetőséget megszüntető ok (büntető anyagi jogi szabályok); (2) A Büntetőeljárásról szóló törvény 412-415. §-ai: a releváns büntetőeljárás szabályok; (3) A 2006. évi CXXIII. törvény a büntető ügyekben alkalmazható közvetítői eljárásról.</p>	<p>(1) Article 29 of the Hungarian Criminal Code regulates Active Repentance as a ground for exemption from criminal responsibility (substantial criminal law rules); (2) Articles 412-415 of the Code of Criminal Procedure contains the relevant criminal procedure rules; (3) Act CXXIII of 2006 on Mediation in Criminal Cases regulates in details the mediation procedure to be followed.</p>
<p>Other relevant rules</p>	<p>E.g. Ministerial Ordinance No... Circular, regulation.... For further information see the national report</p>	

ITALY

<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p> <p>1) Decreto legislativo 14 luglio 2020, n.75. Attuazione della direttiva (UE) 2017/1371, relativa alla lotta contro la frode che lede gli interessi finanziari dell'Unione mediante il diritto penale, GU n. 177 del 15.07.2020 https://www.gazzettaufficiale.it/eli/id/2020/07/15/20G00091/sg</p>	<p>1) Legislative Decree No. 75 of 14 July 2020, implementing the Directive (EU) 2017/1371 on the Fight Against Fraud to the Union's Financial Interests by Means of Criminal Law, Official Gazette No.177 July 15, 2020</p>
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <p>1) Decreto legislativo 2 febbraio 2021, n. 9. Disposizioni per l'adeguamento della normativa nazionale alle disposizioni del regolamento (UE) 2017/1939 del Consiglio, del 12 ottobre 2017, relative all'attuazione di una cooperazione rafforzata sull'istituzione della Procura europea «EPPO», GU n.30 del 05.02.2021 https://www.gazzettaufficiale.it/eli/gu/2021/02/05/30/sg/pdf</p> <p>2) Codice penale, Regio Decreto 19 ottobre 1930, n. 1398, GU Serie Generale n. 251 del 26.10.1930 (art.314; art.316; art.316-ter; art.319-quarter; art.318; art. 322-bis(5-quinquies); art.323; art. 416; art. 416-bis, art. 640 c.2; art.640-bis; art.646; art. 648; art.648-bis; art. 648-ter; art.648-ter (1)) https://www.gazzettaufficiale.it/dettaglio/codici/codicePenale</p> <p>3) Decreto legislativo 10 marzo 2000, n. 74. Nuova disciplina dei reati in materia di imposte sui redditi e sul valore aggiunto, a norma dell'articolo 9 della legge 25 giugno 1999, n. 205, GU Serie Generale n. 76 del 31.03.2000 (art. 2-5; art.6 c.1bis; art. 8; art.10; art.10-quarter; art.11; art. 13; art. 13-bis) https://www.gazzettaufficiale.it/eli/id/2000/03/31/000G0112/sg</p> <p>4) Decreto legislativo 8 giugno 2001, n. 231. Disciplina della responsabilità</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Legislative Decree No. 9 of 2 February 2021 to adapt the National Framework to the Council Regulation (EU) 2017/1939 of 12 October 2017 Implementing Enhanced Cooperation on the Establishment of the European Public Prosecutor's Office (EPPO), Official Gazette No.30 February 5, 2021</p> <p>2) Criminal Code, Royal Decree No. 1398 of 19 October 1930, Official Gazette No. 251 October 26, 1930. (art.314; art.316; art.316-ter; art.319-quarter; art.318; art.322-bis(5-quinquies); art.323; art. 416; art.416-bis, art.640(2); art.640-bis; art.646; art.648; art.648-bis; art. 648-ter; art.648-ter(1))</p> <p>3) Legislative Decree No. 74 of 10 March 2000 on Offences and Penalties in Relation to Income Taxes and Value Added Tax pursuant to art. 9 of Law No. 205 of 25 June 1999, Official Gazette No.76 March 31, 2000 (art. 2-5; art.6(1-bis); art. 8; art.10; art.10-quarter; art.11; art. 13; art. 13-bis)</p> <p>4) Legislative Decree No. 231 of 8 June 2001, Discipline of the Administrative Liability of</p>

	<p>amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica, a norma dell'art. 11 della legge 29 settembre 2000, n. 300, GU Serie Generale n.140 del 19.06.2001 (art. 24; art.25; art. 25-quinquiesdecies) https://www.gazzettaufficiale.it/eli/id/2001/06/19/001G0293/sg</p> <p>5) Decreto del Presidente della Repubblica 23 gennaio 1973, n. 43. Testo Unico in materia doganale, GU Serie Generale n. 80 del 28.03.1973; anche in relazione alla disciplina della depenalizzazione introdotta con decreto legislativo 8/2016 (art.1, c.4) (art. 282-292; art. 294; art. 295) https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.data PubblicazioneGazzetta=1973-03-28&atto.codiceRedazionale=073U0043&elenco30giorni=false</p> <p>6) Legge 23 dicembre 1986, n. 898. Misure urgenti in materia di controllo degli aiuti comunitari alla produzione dell'olio di oliva. Sanzioni amministrative e penali in materia di aiuti comunitari nel settore agricolo, GU Serie Generale n. 299 del 27.12.1986 (art. 2, c.1) https://www.gazzettaufficiale.it/eli/id/1986/12/27/086U0898/sg</p>	<p>Legal Persons, of Companies and Associations even without Legal Status, pursuant to art.11 of Law No. 300 of 29 September 2000, Official Gazette No. 140 June 19, 2001. (art.24; art.25; art. 25-quinquiesdecies)</p> <p>5) Consolidated Act on Customs Laws, Presidential Decree No. 43 of 23 January 1973, Official Gazette n. 80 March 28, 1973, even with regard to the previous decriminalisation introduced by Legislative Decree 8/2016 (art.1 (4)) (art. 282-292; art.294; art. 295)</p> <p>6) Law of 23 December 1986, No. 898. Control of Community Aid for the Production of Olive Oil. Agricultural Fraud (Misappropriation or Wrongful Retention of Funds or Assets Coming from EU or EU-managed Budgets), Official Gazette No. 299 December 27, 1986 (art. 2(1))</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p style="text-align: center;">Law in original language</p> <p>1) Legge 26 luglio 1975, n. 354. Norme sull'ordinamento penitenziario e sulla esecuzione delle misure privative e limitative della libertà, GU n.212 del 9.8.1975, Suppl. Ordinario (art.47-52) https://www.gazzettaufficiale.it/eli/id/1975/08/09/075U0354/sg</p> <p>2) Codice penale, Regio Decreto 19 ottobre 1930, n. 1398, GU Serie Generale n. 251 del 26.10.1930 (art. 131-bis; art. 162-bis; art. 163-ter) https://www.gazzettaufficiale.it/dettaglio/codici/codicePenale</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Law No. 354 of 26 July 1975, Penitentiary Act and Enforcement of Liberty Deprivation and Restriction Measures, Official Gazette No. 212 August 9, 1975 (art.47-52)</p> <p>2) Criminal Code, Royal Decree No. 1398 of 19 October 1930, Official Gazette No. 251 October 26, 1930. (art. 131-bis; art. 162-bis; art. 163-ter)</p>

	<p>3) Decreto del Presidente della Repubblica 22 settembre 1988, n. 448. Processo penale a carico di imputati minorenni, GU Serie Generale n.250 del 24.10.1988, Suppl. Ordinario n. 92. (art. 27-29) https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.data PubblicazioneGazzetta=1988-10-24&atto.codiceRedazionale=088G0493&elenco30giorni=false</p> <p>4) Decreto legislativo 28 agosto 2000, n.274. Disposizioni sulla competenza penale del giudice di pace, a norma dell'art. 14 della legge 24 novembre 1999, n. 468, GU Serie Generale n. 234 del 6.10.2000, Suppl. Ordinario n. 166 (art.29; art.34-35) https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.data PubblicazioneGazzetta=2000-10-06&atto.codiceRedazionale=000G0324&elenco30giorni=false</p> <p>5) Decreto Legislativo 4 marzo 2010, n. 28. Attuazione dell'articolo 60 della legge 18 giugno 2009, n. 69 in materia di mediazione finalizzata alla conciliazione delle controversie civili e commerciali, GU Serie Generale n. 53 del 5.3.2010 https://www.gazzettaufficiale.it/eli/id/2010/03/05/010G0050/sg</p> <p>6) Legge 28 aprile 2014, n. 67. Deleghe al Governo in materia di pene detentive non carcerarie e di riforma del sistema sanzionatorio. Disposizioni in materia di sospensione del procedimento con messa alla prova e nei confronti degli irreperibili. GU Serie Generale n.100 del 02.05.2014 https://www.gazzettaufficiale.it/eli/id/2014/05/02/14G00070/sg</p> <p>7) Codice di procedura penale, Decreto del Presidente della Repubblica 22 settembre 1988, n. 447. Approvazione del codice di procedura penale GU Serie Generale n. 250 del 24.10.1988, Suppl. Ordinario n. 92 https://www.gazzettaufficiale.it/dettaglio/codici/codiceProceduraPenale</p>	<p>3) Presidential Decree No. 448 of 22 September 1988, Criminal Procedures Applicable to Juvenile Offenders, Official Gazette No. 250 October 24, 1988. (art.27-29)</p> <p>4) Legislative Decree No. 274 of 28 August 2000. Provisions Related to the Criminal Jurisdiction of Judges of the Peace pursuant to Article 14 of Law No. 468 of November 24, 1999, Official Gazette No. 234 October 6, 2000 (art. 29; art. 34-35)</p> <p>5) Legislative Decree No. 28 of 4 March 2010, implementing art.60 of Law No. 69 of 18 June 2009 Mediation in Civil and Commercial Disputes, Official Gazette No. 53 March 5, 2010</p> <p>6) Law No. 67 of 28 April 2014, Criminal Penalties not involving Imprisonment and Measures on Prison Reform. Probation Measures and Provisions on Unjustified Absence of the Accused from Criminal Procedures, Official Gazette No. 100 May 2, 2014.</p> <p>7) Italian Code of Criminal Procedure, Presidential Decree No. 447 of 22 September 1988, Approval of Criminal Procedure Code, Official Gazette No. 250 October 24, 1988.</p>
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	<p>8) Decreto legislativo 8 giugno 2001, n. 231. Disciplina della responsabilità amministrativa delle persone giuridiche, delle società e delle associazioni anche prive di personalità giuridica, a norma dell'art. 11 della legge 29 settembre 2000, n. 300 GU Serie Generale n.140 del 19.06.2001 (art.11; art.12; art.17; art.49; art.50; art.65; art.78) https://www.gazzettaufficiale.it/eli/id/2001/06/19/001G0293/sg</p> <p>9) Legge 27 settembre 2021, n. 134. Delega al Governo per l'efficienza del processo penale nonché in materia di giustizia riparativa e disposizioni per la celere definizione dei procedimenti giudiziari, GU Serie Generale n. 237 del 4.10.2021 https://www.gazzettaufficiale.it/eli/id/2021/10/04/21G00146/sg</p>	<p>8) Legislative Decree No. 231 of 8 June 2001, Discipline of the Administrative Liability of Legal Persons, of Companies and Associations even without Legal Status, pursuant to art. 11 of Law No. 300 of 29 September 2000, Official Gazette No. 140 June 19, 2001 (art.11; art.12; art.17; art.49; art.50; art.65; art.78)</p> <p>9) Law No. 134 of 27 September 2021 Delegation to the Government for the Reform of the Penal System, Efficiency of Criminal Trials and Restorative Justice. Official Gazette No. 237 October 4, 2021</p>
<p>Other relevant rules</p>	<ul style="list-style-type: none"> • Linee di indirizzo in materia di giustizia riparativa e tutela delle vittime di reato, emanate dal Ministero della giustizia, https://www.gnewsonline.it/linee-di-indirizzo-in-materia-di-giustizia-riparativa-e-tutela-delle-vittime-di-reato/ • Raccomandazioni dell'Autorità garante per l'infanzia e l'adolescenza in materia di giustizia riparativa, https://www.garanteinfanzia.org/sites/default/files/03-raccomandazioni-giustizia-riparativa.pdf • Linee programmatiche di indirizzo generale per l'anno 2020 adottate dalla Cassa delle ammende https://www.giustizia.it/giustizia/it/contentview.page?contentId=ART229459 <p>For further information see the national report</p>	

LITHUANIA		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	Law in original language	English translation of the title or topic
Other relevant national provisions on ADR (diversion, restorative and mediation procedures)	<p style="text-align: center;">Law in original language</p> <p>1) Baudžiamojo kodekso, 2000 m. rugsėjo 26 d. Nr. VIII-1968 (38-39 (1); 64) https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.111555</p> <p>2) Baudžiamojo proceso kodekso, 2002 m. kovo 14 d. nr. ix-785 (273; 387; 418-425; 426-432) https://e-seimas.lrs.lt/portal/legalact/lt/tad/tais.163482</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Criminal Code (26 September 2000 N°VIII-1968 (art. 38-39 (1); art. 64) https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/28b18041843311e89188e16a6495e98c</p> <p>2) Criminal Procedure Code (art. 273; art. 387; art. 418-425; art. 426-432)</p>
Other relevant rules	For further information see the national report	

THE NETHERLANDS

<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p>	
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <p>1. Wetboek van strafrecht, 3 maart 1881: -Art. 177- 178, art. 225 (1); art. 225 (2); arts. 227a -227b; art. 323; art. 326; art. 363; art.364; art. 420bis- 420ter.</p> <p>-Titel IIA. Maatregelen: eerste afdeling. (Onttrekking aan het verkeer, ontneming van het wederrechtelijk verkregen voordeel en schadevergoeding); in het bijzonder art. 36e.</p> <p>2. Wetboek van strafvordering, 15 januari 1921: - Eerste boek (Algemene bepalingen): Art. 9; art. 67a (2)(3).</p> <p>-Tweede boek, titel IV (beslissing omtrent verdere vervolging): art. 242- 255a.</p> <p>-Tweede boek, titel IVa (Vervolging door een strafbeschikking): art. 257a.</p> <p>3. De Algemene wet inzake rijksbelastingen, Art. 69- 69a.</p> <p>4. Wet op de economische delicten, 22 juni 1950. Titel VI. (Van de afdoening buiten geding) Art. 36.</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1. Criminal Code, 3 March 1881: Art. 177- 178, art. 225 (1); art. 225 (2); arts. 227a -227b; art. 323; art. 326; art. 363; art.364; art. 420bis- 420ter.</p> <p>-Title IIA. Measures: first section, (withdrawal from traffic, deprivation of illegally obtained advantage and compensation); in particular art. 36e.</p> <p>2. Code of Criminal Procedure, 15 January 1921: - First book (General provisions): Art. 9; art. 67a (2)(3).</p> <p>-Second book, title IV (decision to continue prosecution): art.242-255a.</p> <p>-Second book, title IVa (prosecution by penal order): art. 257a.</p> <p>3. General state tax law, 2 juli 1959, Art. 69-69a.</p> <p>4. Act on economic offences 22 June 1950. Title VI (settlement outside of the proces) art. 36.</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p style="text-align: center;">Law in original language</p> <p>1. Wetboek van strafrecht, 3 maart 1881. Titel VIII (Verval van het recht tot strafvordering en van de straf) Art. 74</p> <p>2. Wetboek van strafvordering, 15 januari 1921, Titel IIIA (Het slachtoffer) Art. 51a-51h.</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1. Criminal code, 3 March 1881. Title VIII (forfeiture of criminal procedure and penalty) art. 74.</p> <p>2. Code on criminal procedure, 15 January 1921. Title IIIA (the victim). Art. 51a-51h .</p>
<p>Other relevant rules</p>	<p>- Aanwijzing hoge transacties, 4 September 2020, (instruction higher transactions for the public prosecutor). Aanwijzing van het College van procureurs-generaal aan de Hoofden van de OM-</p>	



	<p>onderdelen.</p> <p>https://zoek.officielebekendmakingen.nl/stcrt-2020-46166.html</p> <ul style="list-style-type: none">- Aanwijzing afpakken, 1 Januari 2017 (instruction for the public prosecutor on taking away financial gain from criminal activities). https://zoek.officielebekendmakingen.nl/stcrt-2016-72371.html- Aanwijzing sepot en gebruik sepotgronden, 1 march 2021 (instruction for the public prosecutor on the dismissal of prosecution). https://zoek.officielebekendmakingen.nl/stcrt-2020-62570.html <p>For further information see the national report</p>
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PORTUGAL		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	<p>Veja-se as medidas de transposição comunicadas pelo Estado-Membro em: https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p> <p>É também relevante a Lei n.º 112/2019, de 10 de setembro - adapta a ordem jurídica interna ao Regulamento (UE) 2017/1939 do Conselho, de 12 de outubro de 2017</p>	<p>See national transposition measures communicated by the Member State in: https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p> <p>It is also relevant to look at Law n° 112/2019, of 10 of September – adapting the Portuguese legal order to Council Regulation (EU) 2017/1939.</p>
National criminal rules on financial crimes relevant to EPPO	<p style="text-align: center;">Law in original language</p> <p>1) Código Penal, adotado pelo Decreto-Lei n.º 48/95, de 15 de março e na sua redação atual. 2) Código de Processo Penal, adotado pelo Decreto-Lei N.º 78/87. 3) Decreto-Lei n.º 28/84, de 20 de janeiro, na sua redação atual. 4) Lei n.º 34/87, de 16 de julho, na sua redação atual. 5) Lei n.º 15/2001, de 5 de junho, na sua redação atual.</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Criminal Code, adopted by Decree-Law 48/95, of 15 of March (as amended). 2) Criminal Procedure Code, adopted by Decree-Law N.º 78/87, of 17 February (as amended). 3) Decree-Law n.º 28/84, of 20 of January (as amended). 4) Law n.º 34/87, of 16 of July (as amended). 5) Law n.º 15/2001, of 5 of June (as amended).</p>
Other relevant national provisions on ADR (diversion, restorative and mediation procedures)	<p style="text-align: center;">Law in original language</p> <p>1) Código de Processo Penal, adotado pelo Decreto-Lei No. 78/87, de 17 de fevereiro, na sua redação atual. (art. 57; art. 97(5); art. 399) https://dre.pt/dre/legislacao-consolidada/decreto-lei/1987-34570075</p> <p>2) Lei N.º 21/2007, de 12 Junho “Regime da Mediação Penal”. https://dre.pt/dre/legislacao-consolidada/lei/2007-63397378</p> <p>3) Lei No. 29/2013, de 19 de abril, Estabelece os princípios gerais aplicáveis à mediação realizada em Portugal, bem como os regimes jurídicos da mediação civil e comercial, dos mediadores e da mediação pública, Diário da República, N.77 19 de Abril de 2013, https://files.dre.pt/1s/2013/04/07700/0227802284.pdf</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Criminal Procedure Code, adopted by Decree-Law N.º 78/87, of 17 February (as amended)(art. 57; art. 97(5); art.399)</p> <p>2) Law No. 21/2007, of 12 June “Criminal Mediation Law”</p> <p>3) Law no. 29/2013, of 19 April, Establishing the General Principles Applicable to Mediation carried out in Portugal, as well as the Legal Framework for Civil and Commercial Mediation, for Mediators and for Public Mediation.</p>
Other relevant rules	<ul style="list-style-type: none"> Ministerial Ordinance No. 68- C/2008, 22 January (as amended by Ministerial Ordinance No. 732/2009, 8 July) <p>For further information see the national report</p>	

ROMANIA		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	<p style="text-align: center;">Law in original language</p> <p>1) Codul de procedură penală, adoptat prin Legea Nr. 135 din 1 iulie 2010 (art. 318; art. 374 par. (4); art. 375; art 396 par. (10), art. 478-488) http://legislatie.just.ro/Public/DetaliiDocumentAfis/245539</p> <p>2) Codul penal, adoptat prin Legea Nr. 286 din 17 iulie 2009 (art. 289, art. 290) http://legislatie.just.ro/Public/DetaliiDocument/109855</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Criminal Procedure Code, N. 135 of 1 July 2010 (art. 318; art. 374 par. (4); art. 375; art 396 par. (10); art. 478-488) http://legislatie.just.ro/Public/Acasa</p> <p>2) Criminal Code, Law No. 286 of 17 July 2009 (art. 289, art. 290) http://legislatie.just.ro/Public/Acasa</p> <p>3) Law No. 78/2000 on preventing, discovering and sanctioning of corruption offenses, (Section 4- Offences against the financial interests of the European Union, art. 18; art. 6; art. 7)</p> <p>4) Law No. 55/31.03.2021 on amending the Law no.241/2005 for the prevention and combating of tax evasion, Official Gazette no. 332 of April 1, 2021, Promulgated by Decree no. 255 of March 31, 2021 (art. 10)</p> <p>5) Law No. 241/2005 on preventing and combating the tax evasion, Official Gazette of Romania, Part I, No. 672 of July 27, 2005 Chapter II- Criminal offenses (art.4; art. 8; art. 9)</p> <p>6) Law No. 86/2006 on the Romanian Customs Code (art. 270; art. 272; art. 273; art. 274; art. 275)</p> <p>7) Law No. 129/2019 of July 11, for the prevention and combating money laundering and terrorist financing, as well as for amending and completing some normative acts (art. 49)</p>

<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p style="text-align: center;">Law in original language</p> <p>1) Codul de procedură penală, adoptat prin Legea Nr. 135 din 1 iulie 2010 (art. 16, par. (1) let. g; art. 318; art. 374 par. (4); art. 375; art 396 par. (10); art. 478-488;) http://legislatie.just.ro/Public/DetaliuDocumentAfis/245539</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Criminal Procedure Code, N. 135 of 1 July 2010 (text shall be in force as of 7 February 2014 Law) (art. 318; art. 374 par. (4); art. 375; art. 396 par. (10); art. 478-488; art. 16, par. (1) let. g)(for art. 16 CPC see also Law No. 192/2006 on mediation and the organization of the profession of mediator, art. 67) http://legislatie.just.ro/Public/Acasa</p>
<p>Other relevant rules</p>	<p>For further information see the national report</p>	

SERBIA (EU candidate country)

<p>National criminal rules on financial crimes relevant to EPPO</p>	<p>Law in original language</p> <p>1) Krivični zakonik (“Službeni glasnik Republike Srbije, broj 85/2005, 88/2005-ispr., 107/2005-ispr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019) (član 209; član 225.) https://www.paragraf.rs/propisi/krivicni-zakonik-2019.html</p>	<p>English translation of the title or topic (The English text is not an official source of the Serbian government)</p> <p>1) Criminal Code (Official Gazette of RS, No. 85/2005, 88/2005, 107/2005) (art. 209; art. 225;) https://www.legislationline.org/download/id/5480/file/Serbia_CC_am2012_en.pdf</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p>Law in original language</p> <p>1) Zakonik o krivičnom postupku (“Službeni glasnik Republike Srbije, broj 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021-odluka US i 62/2021-odluka US), Odlaganje krivičnog gonjenja, član 283. https://www.paragraf.rs/propisi/zakonik_o_krivicnom_postupku.html</p>	<p>English translation of the title or topic (The English text is not an official source of the Serbian government)</p> <p>1) Criminal Procedure Code, 26 September 2011 (Official Gazette of the Republic of Serbia, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021, 62/2021), Deferring Criminal Prosecution, art. 283 https://www.legislationline.org/download/id/3560/file/Serbia_2011%20CPC%20English_.pdf</p>
<p>Other relevant rules</p>	<ul style="list-style-type: none"> • Instruction of the Republic Public Prosecutor Act. No. 246/08 of March 28, 2019 For further information see the national report 	

SLOVAK REPUBLIC		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	<p style="text-align: center;">Law in original language</p> <p>1) Trestný zákon číslo 300/2005 Zbierky zákonov, z 20. mája 2005, (paragrafy 261-263)</p> <p>2) Trestný poriadok číslo 301/2005 Zbierky zákonov, z 24. mája 2005, (paragrafy 22a, 95-96g, 196)</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>(The English texts are not official sources of the Slovak government)</p> <p>1) Criminal Code No. 300/2005 Coll., 20 May 2005 (art. 261-263) https://www.legislationline.org/download/id/3763/file/Slovakia_CC_2005_en.pdf</p> <p>2) Code of Criminal Procedure of the Slovak Republic No. 301/2005 Coll., 24. May 2005 (art. 22a, 95 – 96g, 196) https://www.legislationline.org/download/id/8295/file/Slovakia_CPC_2005_excerpts_en.pdf</p>
Other relevant national provisions on ADR (diversion, restorative and mediation procedures)	<p style="text-align: center;">Law in original language</p> <p>1) Trestný poriadok číslo 301/2005 Zbierky zákonov, z 24. mája 2005, (paragrafy 216, 220 a 232)</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Code of Criminal Procedure of the Slovak Republic No. 301/2005 Coll., 24. May 2005 (art. 216, Sec. 1, 6; art. 220, art. 232) https://www.legislationline.org/download/id/8295/file/Slovakia_CPC_2005_excerpts_en.pdf</p>
Other relevant rules	For further information see national report	

SLOVENIA

<p>National Laws implementing the PIF Directive (Directive EU 2017/1371)</p>	<p>See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371</p>	
<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <p>1) Kazenski zakonik (Uradni list RS, št. 55/08 z dne 4.6.2008) Neuradno prečiščeno besedilo Kazenskega zakonika obsega: Zakon o spremembah in dopolnitvah Kazenskega zakonika (Uradni list RS, št. 27/17 z dne 2.6.2017) (arts. 229, 245, 249, 257a, 261-264, 294 and inextricably –linked offences ex art. 22(3) of the EPPO regulation such as arts. 211, 251-253)</p> <p>2) Zakon o kazenskem postopku (Uradni list RS, št. 63/94 dne 13.10.1994) Neuradno prečiščeno besedilo Zakona o kazenskem postopku obsega: Odločbo ugotovitvi, da je drugi odstavek 129.a člena Zakona o kazenskem postopku, kolikor določa petnajstdnevni rok za vložitev predloga o nadomestitvi kazni zaporu s hišnim zaporom, ki teče od pravnomočnosti sodbe oziroma od zadnje vročitve prepisa sodbe dalje, v neskladju z Ustavo in odločba o ugotovitvi kršitve človekove pravice (Uradni list RS, št. 89/20 z dne 19.6.2020) (art.16a, 165a) If the offences ex art. 22(3) of the EPPO regulation (inextricably-linked offences) resulted in unpaid taxes, the Settlements procedure (art. 161a) may not apply</p> <p>3) Pravilnik o poravnavanju v kazenskih zadevah (Uradni list RS, št. 114/04, 58/11 – ZDT-1 in 23/18)</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Criminal Code (Official Gazette of the Republic of Slovenia, N° 55/08 of 4 June 2008) Unofficial consolidated version of the Criminal Code, comprise amendments up to Act amending the Criminal Code (Official Gazette of the Republic of Slovenia, n° 27/17 of 2 June 2017) (arts. 229, 245, 249, 257a, 261-264, 294 and inextricably-linked offences ex art. 22(3) of the EPPO regulation, such as arts. 211, 251-253)</p> <p>2) Criminal Procedure Act (Official Gazette of the Republic of Slovenia, N° 63/94 of 13 March 1994) Unofficial consolidated version of the Criminal Procedure Act, comprise amend19 Junements up to Decision establishing that paragraph two of Article 129.a of the Criminal Procedure Act is inconsistent with the Constitution, insofar as it imposes a fifteen-day deadline for filing a motion to replace a prison sentence with house arrest, which runs from the finality of the judgment or from the last service of the transcript of the judgment, and Decision establishing the violation of human right (Official Gazette of the Republic of Slovenia, N° 89/20 of 19 June 2020) (art. 161a, 165a). If the offences ex art. 22(3) of the EPPO regulation (inextricably-linked offences) resulted in unpaid taxes, the Settlements procedure (art. 161a) may not apply</p> <p>3) Rules on mediation in criminal matters (Official Gazette of the Republic of Slovenia, N° 114/04 with further Amendments)</p>

<p>National criminal rules on financial crimes relevant to EPPO</p>	<p style="text-align: center;">Law in original language</p> <p>4) Zakon o odgovornosti pravnih oseb za kazniva dejanja (Uradni list RS, št. 98/04 – uradno prečiščeno besedilo, 65/08 in 57/12)</p>	<p style="text-align: center;">English translation of the title or topic</p> <p>4) Liability of Legal Persons for Criminal Offences (Official Gazette of the Republic of Slovenia, N° 59/99 of 23 July 1999, with further amendments)</p>
<p>Other relevant national provisions on ADR (diversion, restorative and mediation procedures)</p>	<p style="text-align: center;">Law in original language</p> <p>1) Kazenski zakonik (Uradni list RS, št. 55/08 z dne 4.6.2008) Neuradno prečiščeno besedilo Kazenskega zakonika obsega: Zakon o spremembah in dopolnitvah Kazenskega zakonika (Uradni list RS, št. 27/17 z dne 2.6.2017)</p> <ul style="list-style-type: none"> - criminal offence punishable by a fine or a sentence of imprisonment of up to three years, and involving the criminal offences referred to in paragraph two of Article 161a CPA, to a settlement procedure - in special circumstances arts. 123.1, 124.4., 205.1.1, 208.4, 220.2 - if the criminal complaint is submitted against a minor, see criminal offences punishable by a sentence of imprisonment of up to five years 	<p style="text-align: center;">English translation of the title or topic</p> <p>1) Criminal Code (Official Gazette of the Republic of Slovenia N° 55/08 of 4 June 2008) Unofficial consolidated version of the Criminal Code comprise amendments up to Act amending the Criminal Code (Official Gazette of the Republic of Slovenia, N° 27/17 of 2 June 2017)</p> <ul style="list-style-type: none"> - criminal offence punishable by a fine or a sentence of imprisonment of up to three years, and involving the criminal offences referred to in paragraph two of Article 161a CPA, to a settlement procedure - in special circumstances arts. 123.1, 124.4, 205.1.1, 208.4, 220.2, - if the criminal complaint is submitted against a minor, see criminal offences punishable by a sentence of imprisonment of up to five years

	<ul style="list-style-type: none"> - criminal offences punishable by a fine or a sentence of imprisonment of up to three years - criminal offences referred to in paragraph two of Article 162CPA, - in special circumstances arts. 187.1, 191.1, 191.2, 192, 205.1.1, 208.4, 213.1, 213.2, 220.2, 228.1, 246.2 - if a criminal complaint is submitted against a minor, see criminal offences punishable by a sentence of imprisonment of up to five years <p>2) Zakon o kazenskem postopku (Uradni list RS, št. 63/94 dne 13.10.1994) Neuradno prečiščeno besedilo Zakona o kazenskem postopku obsega: Odločbo ugotovitvi, da je drugi odstavek 129.a člena Zakona o kazenskem postopku, kolikor določa petnajstdnevni rok za vložitev predloga o nadomestitvi kazni zaporu s hišnim zaporom, ki teče od pravnomočnosti sodbe oziroma od zadnje vročitve prepisa sodbe dalje, v neskladju z Ustavo in odločba o ugotovitvi kršitve človekove pravice (Uradni list RS, št. 89/20 z dne 19.6.2020) (art.161a, 162, 165a)</p>	<ul style="list-style-type: none"> - criminal offences punishable by a fine or a sentence of imprisonment of up to three years - criminal offences referred to in paragraph two of Article 162CPA - in special circumstances arts. 187.1, 191.1, 191.2, 192, 205.1.1, 208.4, 213.1, 213.2, 220.2, 228.1, 246.2 - if a criminal complaint is submitted against a minor, see criminal offences punishable by a sentence of imprisonment of up to five years <p>2) Criminal Procedure Act (Official Gazette of the Republic of Slovenia, N° 63/94 of 13 March 1994) Unofficial consolidated version of the Criminal Procedure Act, comprise amend 19 Junements up to Decision establishing that paragraph two of Article 129.a of the Criminal Procedure Act is inconsistent with the Constitution, insofar as it imposes a fifteen-day deadline for filing a motion to replace a prison sentence with house arrest, which runs from the finality of the judgment or from the last service of the transcript of the judgment, and Decision establishing the violation of human right (Official Gazette of the Republic of Slovenia, N° 89/20 of 19 June 2020) (art. 161a, 162, 165a)</p> <p>3) Rules on mediation in criminal matters (Official Gazette of the Republic of Slovenia, N° 114/04 with further Amendments)</p>
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Other relevant rules	<ul style="list-style-type: none">• General Guidelines for Uniform Application of Article 162 of the Criminal Procedure Act• General Instructions on conditions and circumstances for referring cases to a mediation process <p>For further information see the national report</p>
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SPAIN		
National Laws implementing the PIF Directive (Directive EU 2017/1371)	See national transposition measures communicated by the Member State in https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371	
National criminal rules on financial crimes relevant to EPPO	<p style="text-align: center;">Law in original language</p> <p style="text-align: center;">Selección de delitos competencia de la Fiscalía Europea</p> <p>1) Ley Orgánica 9/2021, de 1 de julio, de aplicación del Reglamento (UE) 2017/1939 del Consejo, de 12 de octubre de 2017, por el que se establece una cooperación reforzada para la creación de la Fiscalía Europea, para los delitos del art. 4 (arts, 2 y 4) https://www.boe.es/buscar/pdf/2021/BOE-A-2021-10957-consolidado.pdf.</p> <p style="text-align: center;">Regulación sustantiva de las tipicidades objeto de competencia de la Fiscalía Europea</p> <p>2) Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal (arts. 24, 248, 252-253; 301s.; 305 ss.; 419 ss.; 428 ss.; 432 ss.). https://www.boe.es/buscar/pdf/1995/BOE-A-1995-25444-consolidado.pdf</p> <p>3) Ley Orgánica 12/1995, de 12 de diciembre, de Represión de Contrabando (art. 2) https://www.boe.es/buscar/pdf/1995/BOE-A-1995-26836-consolidado.pdf.</p> <p style="text-align: center;">Regulación procesal básica</p> <p>4) Real Decreto, de 14 de septiembre, de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal</p>	<p style="text-align: center;">English translation of the title or topic</p> <p style="text-align: center;">Selection of offences within the jurisdiction of the EPPO</p> <p>1) Organic Act 9/2021, of 1 July, on the application of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (arts. 2 and 4)</p> <p style="text-align: center;">Substantive regulation of the offences for which the EPPO has jurisdiction</p> <p>2) Organic Act 10/1995, of 23 November, of the Criminal Code (arts. 24, 248, 252-253; 301s.; 305 ss.; 419 ss.; 428 ss.; 432 ss.). https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf</p> <p>3) Organic Act 12/1995, of 12 December, on the repression of smuggling (art. 2).</p> <p style="text-align: center;">Main procedural laws</p> <p>4) Royal Decree of 14 September 1882 approving the Criminal Procedure Act</p>



	<p>https://www.boe.es/buscar/pdf/1882/BOE-A-1882-6036-consolidado.pdf</p> <p>5) Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial https://www.boe.es/buscar/act.php?id=BOE-A-1985-12666</p>	<p>https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal%20Procedure%20Act%202016.pdf</p> <p>5) Organic Act 6/1985, 1st July, on the Judiciary https://www.legal-tools.org/doc/881df4/pdf/</p>
Other relevant national provisions on ADR (diversion, restorative and mediation procedures)	<p>Law in original language</p> <p>Regulación sustantiva</p> <p>1) Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal (arts. 21.4ª, 5ª y 7ª, 80-89, 109 ss., 305 ss., 426, 434). https://www.boe.es/buscar/pdf/1995/BOE-A-1995-25444-consolidado.pdf</p> <p>Regulación procesal</p> <p>1) Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal, (arts. 655, 688, 779, 784, 787, 800 ss, 803 bis, 963.1.1ª). https://www.boe.es/buscar/pdf/1882/BOE-A-1882-6036-consolidado.pdf.</p> <p>2) Ley Orgánica 5/1995, de 22 de mayo, del Tribunal del Jurado (arts. 13, 19, 40, 50 y 53) https://www.boe.es/buscar/pdf/1995/BOE-A-1995-12095-consolidado.pdf.</p>	<p>English translation of the title or topic</p> <p>Substantive regulation</p> <p>1) Organic Act 10/1995, of 23 November, of the Criminal Code (arts. 21.4ª, 5ª y 7ª, 80-89, 109 ss., 305 ss., 426, 434). https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf</p> <p>Procedural laws</p> <p>1) Royal Decree of 14 September 1882 approving the Criminal Procedure Act (arts. 655, 688, 779, 784, 787, 800 ss, 803 bis, 963.1.1ª). https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal%20Procedure%20Act%202016.pdf</p> <p>2) Organic Act 5/1995, dated May 22, On Jury Court (arts. 13, 19, 40, 50 and 53) https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/ORGANIC%20ACT%205-1995%2C%20DATED%20MAY%202022.pdf</p>

	<p>3) Ley 4/2015 de 27 de abril del Estatuto de la víctima del delito (arts. 5.1.k y 15) https://www.boe.es/buscar/pdf/2015/BOE-A-2015-4606-consolidado.pdf</p> <p>4) Real Decreto 1109/2015, de 11 de diciembre, por el que se desarrolla la Ley 4/2015, de 27 de abril, del Estatuto de la víctima del delito, y se regulan las Oficinas de Asistencia a las Víctimas del Delito (art. 37) https://www.boe.es/buscar/pdf/2015/BOE-A-2015-14263-consolidado.pdf</p> <p>5) Ley Orgánica 5/2000, de 12 de enero, reguladora de la responsabilidad penal de los menores (arts. 18, 19, 27.4, 32, 36 y 40) https://www.boe.es/buscar/pdf/2000/BOE-A-2000-641-consolidado.pdf</p> <p>6) Real Decreto 1774/2004, de 30 de julio, por el que se aprueba el Reglamento de la Ley Orgánica 5/2000, de 12 de enero, reguladora de la responsabilidad penal de los menores (art. 8.7) https://www.boe.es/buscar/doc.php?id=BOE-A-2004-15601</p> <p>7) Ley Orgánica 9/2021, de 1 de julio, de aplicación del Reglamento (UE) 2017/1939 del Consejo, de 12 de octubre de 2017, por el que se establece una cooperación reforzada para la creación de la Fiscalía Europea, para los delitos del art. 4 (arts. 109 y 110) https://www.boe.es/buscar/pdf/2021/BOE-A-2021-10957-consolidado.pdf</p>	<p>3) Law 4/2015, of 27 April, On the Standing of Victims of Crime (arts. 5.1.k and 15) https://rm.coe.int/168070ac7f</p> <p>4) Royal Decree 1109/2015 of 11 December, implementing Law 4/2015 of 27 April on the standing of the Victim of a Crime and laying down provisions for the regulation of the Aid to Victims of Crime Offices (art. 37)</p> <p>5) Organic Act 5/2000, of 12 January, regulating the criminal liability of minors (arts. 18, 19, 27.4, 32, 36 and 40)</p> <p>6) Royal Decree 1774/2004, of 30 July, which approves the Regulation of Organic Act 5/2000, of January 12, regulating the criminal liability of minors (art. 8.7)</p> <p>7) Organic Act 9/2021, of 1 July, on the application of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (arts. 109 and 110)</p>
Other relevant rules and guidelines	<ul style="list-style-type: none"> • Protocolo de actuación para juicios de conformidad suscrito entre la Fiscalía General del Estado y el Consejo General de la Abogacía española (Protocolo FGE-CGAE de 2009) https://www.poderjudicial.es/cgpj/es/Temas/Relaciones- 	<ul style="list-style-type: none"> • Action protocol for conformity lawsuits signed between the State Attorney General's Office and the General Council of Spanish Lawyers

	<p>institucionales/Convenios/Protocolo-de-actuacion-para-juicios-de-conformidad-suscrito-entre-la-Fiscalia-General-del-Estado-y-el-Consejo-General-de-la-Abogacia-espanola</p> <ul style="list-style-type: none"> • Conveni Execució Protocol Conformitats de Barcelona, de 26/03/2010, entre el Colegio de Abogados de Barcelona y la Fiscalía Provincial de Barcelona https://www.icab.es/export/sites/icab/galleries/documents-contingut-generic/conveni-execucio-protocols-conformitats-de-barcelona.pdf • Circulares e Instrucciones de la Fiscalía https://www.fiscal.es/gl/documentaci%C3%B3n <p>Circular FGE 1/1989, de 8 de marzo, sobre el procedimiento abreviado introducido por la Ley Orgánica 7/1988, de 28 de diciembre.</p> <p>Circular FGE 2/1996, de 22 de mayo, sobre el régimen transitorio del nuevo Código Penal: incidencia en el enjuiciamiento de hechos anteriores.</p> <p>Consulta FGE 4/1999, de 17 de septiembre, sobre algunas cuestiones derivadas de la regulación de la suspensión de la ejecución de las penas privativas de libertad.</p> <p>Circular FGE 1/2003, de 7 de abril, sobre procedimiento para el enjuiciamiento rápido e inmediato de determinados delitos y faltas y de modificación del procedimiento abreviado.</p> 	<ul style="list-style-type: none"> • Execution Plea Agreements Protocol between the Barcelona Bar Association and the Provincial Prosecutor's Office • Prosecutor's Office Circulars and Instructions <ul style="list-style-type: none"> State Attorney General's Office Circular 1/1989, of 8 March, on the abbreviated procedure introduced by Organic Act 7/1988, of 28 December. State Attorney General's Office Circular 2/1996, of 22 May, on the transitory regime of the new Penal Code: incidence in the prosecution of previous acts. Consultation of the State Attorney General's Office 4/1999, of September 17, on some issues arising from the regulation of the suspension of the execution of custodial sentences. State Attorney General's Office Circular 1/2003, of 7 April, on the procedure for the rapid and immediate prosecution of certain crimes and misdemeanors and the modification of the abbreviated procedure. State Attorney General's Office Instruction 1/2003, of 7 April, of the State Attorney General's Office, on organizational aspects of the prosecutor's offices and their assignments due to
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	<p>Instrucción FGE 1/2003, de 7 de abril, de la Fiscalía General del Estado, sobre aspectos organizativos de las fiscalías y sus adscripciones con motivo de la reforma parcial de la Ley de Enjuiciamiento Criminal.</p> <p>Instrucción FGE 8/2005 sobre el deber de información en la tutela y protección de las víctimas en el proceso penal</p> <p>Instrucción FGE 2/2009 sobre aplicación del protocolo de conformidad suscrito por la fiscalía general del estado y el consejo general de la abogacía española.</p> <p>Circular FGE 4/2010 de 30 de diciembre sobre funciones del Fiscal en el ámbito del proceso penal.</p> <p>Circular 1/2015, de 19 de junio, sobre pautas para el ejercicio de la acción penal en relación con los delitos leves tras la reforma penal operada por la Ley Orgánica 1/2015.</p> <p>Circular FGE 1/2016 de 22 de enero sobre responsabilidad penal personas jurídicas</p> <ul style="list-style-type: none"> • Guía para la práctica de la mediación intrajudicial del Consejo General del Poder Judicial (07/11/2016). 	<p>State Attorney general's Office Instruction 1/2003, of 7 April, of the State Attorney General's Office, on organizational aspects of the prosecutor's offices and their assignments due to the partial reform of the Criminal Procedure Law.</p> <p>State Attorney General's Office Instruction 8/2005 on the duty of information in the guardianship and protection of victims in criminal proceedings.</p> <p>State Attorney General's Office Instruction 2/2009 on the application of the compliance protocol signed by the State Attorney General's Office and the General Council of Spanish Lawyers.</p> <p>State Attorney General's Office Circular 4/2010, of 30 December, on the functions of the Prosecutor in the field of criminal proceedings.</p> <p>State Attorney General's Office Circular 1/2015, of 19 June, on guidelines for the exercise of criminal action in relation to minor crimes after the criminal reform operated by Organic Act 1/2015.</p> <p>State Attorney General's Office Circular 1/2016, of 22 January, on criminal liability of legal persons.</p> <ul style="list-style-type: none"> • Practical Guide for Intra-Judicial Mediation of the General Council of Judiciary
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	<p>https://www.poderjudicial.es/cgpi/es/Temas/Mediacion/Guia-para-la-practica-de-la-Mediacion-Intrajudicial/</p>	<p>For further information see the national report</p>
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Part Two

Preliminary Commentary on National Legislations

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1. Introduction

The DRAMP (*Diversion, Restorative and Mediation Procedures*) Project, submitted to the Call Hercule 2020 -'Legal Training and Studies 2020' and funded by the EU, aims to enhance legal and judicial cooperation in cases relevant to the newly established European Public Prosecutor Office (the "EPPO"), particularly in crimes against the EU financial interests. The project's core action is the identification and analysis of national legislation of Member States related to diversion, restorative and mediation procedures in criminal matters and the assessment of their compatibility with the principles of restorative justice and EU law.

In order to collate information relating to the national rules on alternative dispute settlement (ADR) and diversion in force in the EU Member State and to ensure uniformity to the research, data concerning national laws of the different Member States have been initially gathered by means of a questionnaire.

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The data, collected with the assistance of six subcontracted focal points, are summarized in the Country-legislation fact-sheets that are attached herewith and published in the DRAMP Project's website (www.dramp.eu). Those data are presented and discussed at the DRAMP International Conference hosted by the Law Department of the University of Perugia (Italy) in Spring 2022.

2. The questionnaire

This study is a preliminary assessment on the state of art of national laws and procedures related to ADR based on the answers to the questionnaires given by 16 countries: Austria, Belgium, Czech Republic, Estonia, Finland, Germany, Greece, Hungary, Italy, Lithuania, Portugal, Romania, Serbia, Slovakia, Slovenia and Spain. The questionnaire attached herewith (See Annex I) was elaborated at the outset of the research study by a highly qualified team of researchers and professors from the Department of Law of the University of Perugia who form the Dramp Scientific Board.

The questions therein are formulated in both English and Italian. Furthermore, for the sake of achieving uniformity, the Scientific Board also elaborated a glossary containing the agreed definitions of the most used technical terms (such as ADR, diversion, mediation, restorative Justice, legal person, Union's financial interests, fraud, ecc...) (See Annex II).

Once the questionnaire was distributed among the network of participants, the screening of the responses was made by the subcontracted focal points, and eventually submitted to the DRAMP Scientific Board.

The distribution of the questionnaire has been a means to set the framework of the research with the objective to achieve uniformity in the information provided by the national contact points. The replies to the questionnaire were accompanied by references to the relevant pieces of domestic legislation, which were examined and classified by the focal points and summarized country by country into the legislations fact-sheets attached herewith. The legislation fact-sheets are also published on the project's website and viewable through a geographical map of Europe (www.dramp.eu).

This first assessment served as a basis to direct and coordinate the second part of the research, namely the identification of the items that were to be analysed and described in the national reports and discussed by the experts invited at the final conference.

3. Identification of the basic principles governing prosecution in the legal systems under examination

As a starting point and a basis for the initial investigation, the research group needed to achieve information on which principle for prosecution applies in the different legal systems, whether the legality principle, or the opportunity principle.

The legality principle establishes an obligation to prosecute where there are grounds for suspicion that a criminal offence has been committed. Conversely, the opportunity principle (or prosecutorial discretion) gives the prosecutor the right to decide whether or not to start an investigation or carry out prosecution, notwithstanding the presence of the legal conditions allowing it.

Essentially, all the contributors and participants in the DRAMP Project confirmed that their respective legal system follow the legality principle and that prosecution is mandatory under domestic criminal law and procedure. Accordingly, the prosecutor has a duty to proceed; often such duty is mitigated under various circumstances related to the seriousness of the crime (in some cases the filing of a complaint by the victim is required, in others the prosecutor is allowed to apply the proportionality principle and withdraw the case if the offence is a minor one).

The only declared exception is that of the Belgian legal system. The answer to the questionnaire clearly states that the opportunity principle is applied according to domestic law.

Indeed, the identification of the principle governing prosecution is crucial for this research because much of the possibility to apply alternative procedures, diversion and restorative justice depends on which principle governs public prosecution. Hence, ADR may take a very different shape depending on whether or not alternative procedures are implemented within the criminal prosecution system or outside it.

At the same time, tempering the strict legality principle may introduce an alternative to judicial procedure and encourage the proposal to resort to alternative means to redress crimes effects. The prosecutor is obliged to register a case for prosecution but he/she is also able to identify which kind of procedure, whether judicial or alternative to the criminal proceeding, is the swifter and most effective remedy.

As a matter of fact, the identification of the principle supporting the exercise of prosecution is also relevant to establish which is the judicial authority competent to decide the alternative procedure and also to define the Court's powers. Notably, keeping alternative procedure inside the judiciary will facilitate the effectiveness of the enforcement of the decision and grant respect of the *ne bis in idem* principle.

The common feature of the legal systems examined in this study is that, generally they provide for a tempered system of mandatory action: on the one hand, mitigation elements are given by the discretionary assessment of the gravity of the violation allows for the waiver of prosecution in case of minor gravity of the conduct, while, on the other hand, a complaint lodged by the victim or a private prosecution may be expressly requested in respect to some offences. In these cases, the prosecutor is not allowed to trigger the criminal proceeding.

Generally, if conditions for carrying out prosecution expressly provided by the law are lacking, it is provided to discontinue prosecution. It can be observed that, not only the conditions for prosecution vary from one State to the other, but also the type of offences and penalties do.

The decision to discontinue a criminal proceeding is not unknown to those legal systems that follow the strict legality principle. In those systems, the power to decide not to proceed is limited. Such a decision can be taken only under grounds specifically defined by the law, and prosecution can be carried out only by the competent authority (generally, the prosecutor himself).

As an example, in Austria discontinuation is obviously provided when the conduct subject to investigation is not punishable by the law, i.e. if the accused cannot be prosecuted, if there are no factual grounds for criminal prosecution. Discontinuation is also provided if the case has a trifling nature. Usually, this happens when the offence is punishable by a fine, but also in case of offences punished by imprisonment not exceeding 3 years. Notably: *“the nuisance caused by the crime would be seen as trifling having regard to the guilt, the consequences of the crime, and the accused’s demeanor after the crime, especially considering, where applicable, the extent to which the harm has been remedied and other circumstances that would impact sentencing. And additionally, secondly, it does not seem warranted to punish the accused or proceed according to Chapter 11 [diversion] in order to stop the accused or deter others from committing criminal offences. In main proceedings, this is also possible for the judge until the end of the main trial”*. (Austria)

The proportionality principle is usually applied in all the systems under scrutiny. According to all the questionnaires examined, this principle is the guiding principle for discontinuing prosecution in case of minor offences, when the public interest is lacking.

In Spain, even though criminal proceedings are governed by the principle of legality, the Organic Act 1/2015 introduced a diversion mechanism based on the opportunity principle according to which the judicial body may agree, at the request of the Public Prosecutor, to dismiss the procedure and file the proceedings in two cases: when the reported minor crime is of very little seriousness in view of the nature of the fact, its circumstances and the author's personal circumstances and when there is no relevant public interest in the prosecution of the act.

4. The examined legal systems provide for a simplified procedure or a non-judicial settlement as an alternative means for dispute resolution

All national systems examined in the preliminary screening provide for ADR or non-judicial means to settle disputes.

Each legal system has a different mechanisms of alternative dispute resolution and mediation, but those mechanisms differ considerably from one system to the other, because of the diversity of the modalities of activation, the course of the development, even though it can be observed that they all terminate with a decision of a judicial nature. Therefore, comparison between the different mechanisms available under different laws is not advisable,

In all systems, alternative procedures have been developed essentially in the field of juvenile justice, thus their effectiveness from a restorative perspective has to be assessed in relation to other legal areas where ADR has been used.

The current development of the subject-matter is not uniform in character or content since it is linked to the characteristics of criminal procedure in each country, as well as to the specific criminal phenomena that characterize each jurisdiction. It can be noted that, in those systems where the deflation purpose is most emphasized, a number of criminal procedures ranging from guilty plea to plea bargain are considered as alternative solutions which can be applied only in the phase preceding the judgment, i.e., at a rather early stage of the procedure. These procedures interrupt prosecution and, if the tasks assigned are carried out regularly, they extinguish the criminal action, thus achieving the objective envisaged for the recourse to ADR by the national legislator. In some cases, there is a lack of internal coordination (see Greek law where it is potentially preferable to resort to ADR procedures at a later stage of the proceedings, in order to obtain greater benefits).

Considering the results of the questionnaire, it is suggested that, in the following stage of the study, the scope of the research should be restricted to the applicability of alternative procedures to those financial offences that are encompassed by the provisions of the PIF Directive, i.e., custom and tax law offences and, more specifically, those offences falling within the EPPO's competence.

All the answers to the questionnaire confirmed that the alternative procedures are encompassed within the framework of national criminal legislation and that the final decisions are taken by the Judiciary, even when the alternative procedure has an "*autonomous character*" (Hungary). Also, in those systems in which the relevant offences are considered as "*administrative in nature*" (Estonia), they basically remain within the scope of the criminal proceeding.

In the case of Belgium, it seems necessary to better understand the statement contained in the answer to the questionnaire according to which, in the field of customs and taxation it is not possible to start criminal proceedings once the administrative action has begun, due to the application of the principle of *ne bis in idem*. It can be observed that, in cases relevant to EPPO's competence, there could be a cross-border competence and the recourse to an administrative procedure could skip the application of the *ne bis in idem* principle, thus leading to a duplication of procedures and penalties. A similar observation is contained in the Finnish answer to the questionnaire.

It is worth mentioning that, in the Austrian system, diversion can be applied to corporate criminal liability too, but with slight differences. Liability of legal persons presents some peculiarities which will be outlined in a following section.

5. Applicability of diversion and mediation procedures to crimes falling within the EPPO's competence

Most mediation procedures are based on an author and victim relationship and on the need to offer reparation to the latter, while at the same time emphasizing the criminal liability of the first.

Conversely, in the case of offences falling within the competence of EPPO, there is no similar relationship: the "victim" is an international, institutional body, namely the European Union, which is

the holder of direct financial interests. And the State is a victim too, because it is a Member of the organization EU and represents the organization's interests being the holder of indirect financial interests. Furthermore, there is a general interest of the European citizens in the proper functioning of the internal market and in their financial relationship with public administration bodies.

An alternative procedure for crimes within EPPO's competence could be effective if it allows the following results: 1) a rapid recovery of fraudulent amounts; 2) a rebalance of the economic relations by punishing the responsible natural or legal person.

As far as legal persons are concerned, ADR includes the obligation to undergo forms of control or monitoring of their management, allowing public institutions to exercise a power of verification on the correct functioning of the business.

With regard to the applicability of ADR to crimes relevant to EPPO's competence, the first data and the first normative references processed were the implementation measures of the PIF Directive adopted in the Member States examined (Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests, see: *Country legislation fact-sheets* attached herewith).

On the 6th of September 2021, the European Commission published a document assessing deficits with regard to the implementing legislation of the Member States. As a starting point, the present interim study makes use of the *Report from the Commission to the European Parliament and the Council on the implementation of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law*, (available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2021%3A536%3AFIN>).

The EU Commission's Report illustrates that: "[T]he transposition of the PIF Directive still needs to be improved, notably to ensure: (i) the consistent transposition of the definitions of criminal offences referred to in Articles 3, 4 and 5; and (ii) the liability of – and sanctions for – legal persons and natural persons in accordance with Articles 6, 7 and 9. There is also a need to properly transpose the provisions on the exercise of jurisdiction (Article 11) and limitation periods (Article 12)." (Conclusion of the Report on the implementation of the PIF Directive, *ibidem*).

The European Commission called upon Member States for further legislative action to fully align their legislation to the PIF Directive requirements, particularly with a view to enable EPPO to conduct effective investigation and prosecution.

At this point of the research, the participants to this interim study concentrated on the quality of the transposition legislative measures adopted by the Member States involved, rather than focussing on the mere definitions of crimes for which it is possible to resort to ADR.

As a matter of fact, ADR is applicable in principle to offences for which the envisaged penalty has a maximum limit ranging from three to five years imprisonment, this depending on each national law.

The conditions of eligibility are related in particular to the analysis of elements such as the seriousness of the crime and the presence of mitigating circumstances. In general, recourse to ADR is not excluded if the offender is a recidivist, as the Prosecutor will provide a case-by-case assessment of the conditions of admissibility. In fact, the penalty range of some of the criminal offences relevant to EPPO implies that the competent authority has to consider all conditions for diversion and carry out a specific assessment for each case. An offence is generally open to diversion due to its relatively little gravity and because its sentencing range amounts to a relatively low accountability of the accused and when public interest in prosecution is lacking.

As for Spain it is reported that, the penalty reference for the assessment of ADR eligibility is not constituted by the penalty prescribed by the law, but by the final penalty specifically required by the prosecution, which includes the calculation of the statutory benefits and the award provisions.

In Serbia it appears that, deferred prosecution is not allowed for all criminal offences that could be related to the protection of the EU financial interests (e.g., tax evasion). Conversely, other crimes are eligible for the alternative procedure. It should be noted that, the Republic of Serbia is a candidate to EU membership, therefore its domestic provisions relating to criminal offences and the definition of the crimes are not yet fully harmonized with the EU acquis.

6. Identification of the competent authority

Generally, the competent authority to initiate the alternative procedure is the investigating authority, i.e., the public prosecutor. This is, indeed, a characteristic that reflects the prevalent application of the principle of strict legality in the large majority of the legal systems examined.

It should be noted that, in Austria there is a major problem concerning the independence of the Prosecutor, which is widely disputed; the Prosecutor's Office has a strict hierarchical structure and receives instructions from the Ministry of Justice also in relation to specific cases. For this reason, a problem of violation of Article 6 of the European Convention on Human Rights, 1950 (ECHR, *right to a fair trial*) has been raised, because of the lack of independence of the Austrian Public Prosecutor's Office.

In principle, there is great diversity and also considerable flexibility in the determination of the subjects who can decide to resort to ADR; the competence to resort to the alternative procedure primarily belongs to the public prosecutor, but in some situations it can also be activated by the interested parties.

When it comes to the trial, in some cases it is possible to activate a diversion procedure until the end of the trial itself before the Court (see: Germany and Greece).

In Belgium only the application of the opportunity principle - that characterizes the Belgian legal system - gives the Public Prosecutor the power to decide when to prosecute a crime and in which forms (in accordance with general guidelines), and also to opt for an alternative procedure. Another noteworthy element that emerged from the Belgian questionnaire concerns customs law and excise duties, a field in which the customs authority is the only competent authority. In this area, the custom authority has autonomous powers of investigation and can decide which is the preferable way to pursue the infraction, whether that of administrative action or of criminal prosecution. In application of the principle "*electa una via non datur recursus ad alteram*", according to the Belgian questionnaire there is no overlapping of competences and thus, no possible duplication of the proceedings.

In Estonia, the competent authority for conciliation is the conciliator; he/she has the duty to notify to the Prosecutor's Office the performance of the obligation or the failure to perform. The Prosecutor may also summon the conciliator to get information on the agreement concluded, for it is up to the Prosecutor's Office to resume the criminal proceeding in case of non-fulfilment of the agreed conditions. If a person with regard to whom criminal proceedings have been terminated in accordance with the conciliation procedure fails to perform the obligations imposed on him or her, or if he/she commits another intentional criminal offence against the same victim within six months after termination of the proceedings, then the Court, at the request of the Prosecutor's Office, shall resume the criminal proceedings by its order.

7. The rights of the defendant

The rights of the defendant in ADR proceeding must be protected in both criminal and administrative procedures.

Indeed, since the entry into force of the Lisbon Treaty and the Charter of Fundamental Rights of the European Union the respect of the defense rights in criminal proceedings has been one prominent item on the European agenda. The adoption of harmonized transnational cooperation instruments has emphasized the need for minimum rules and standards to ensure a common level of protection and enhance mutual trust between MS. In this framework, respect for the rights of every individual who has been charged with crimes relevant to EPPA shall be guaranteed.

One of the main facets of the right of the accused is the right to be informed of the consequences of the action and the right to receive the assistance of a defense counsel. The availability of legal assistance, granted by law, may have some consequences when it comes to the choice of the procedure,

the release of declarations, the admissibility of evidence; in this regard the principle *nemo tenetur se detegere* should be respected.

In ADR procedures it is the suspect who personally accepts the agreement. However, the consequences of his choice with regard to the content of the agreement are so important to justify the insertion of a rule on the possibility of being assisted by a lawyer. Indeed, in many States it is possible to be assisted by a defense lawyer, but in some cases only if so authorized. In other States, there is the possibility - not the obligation - to get legal counseling, it depends on the nature of the ADR or on the phase in which the ADR intervenes. If it happens in an extra-judicial phase, then no legal assistance is granted. Conversely, if it happens during the proceeding before the Court, legal counselling can be provided. Only few States provide for mandatory legal assistance.

Differences among the reported legal solutions adopted at the domestic level are significant. In one case, in the conciliation procedure legal counseling is provided only upon request and with the permission of the conciliator (Estonia), in others the diversion procedures are so strictly intertwined with the judicial procedures that the assistance of a legal counsel is mandatory. In between there is a number of systems in which different levels of legal aid are provided in ADR, assistance is not offered throughout the whole procedure and is not always mandatory.

8. Liability of legal persons

Under international standards, Member States are required to establish liability for legal persons and to impose adequate sanctions, criminal or non-criminal in nature, including monetary sanctions against entities with reference to certain violations, such as corruption, money laundering, frauds against financial interest of the EU, etc.. that are encompassed within the EPPO's investigation competence.

The issue of legal persons' liability is a complex one considering that abstract entities are often the subjects who benefit from transnational crimes. Indeed, anticorruption measures, acts and conventions to combat money laundering, as well as European directives on the protection of the Union's financial interests have led the Member States to enact domestic provisions that establish liability of legal persons on the basis of a functional equivalence to the responsibility of natural persons. However, there are still some States who do not recognize the direct liability of legal persons under their domestic criminal law.

Generally, the approach to criminalization of legal persons depends on two main factors: a) the type of legal system (whether of Common law or Civil law), and b) the grounds for the exercise of jurisdiction.

Some legislations base their choice on the impossibility to apply the rule on the *mens rea*, i.e., the psychological element of the crime, to an abstract entity. So, they require that a natural person from the company's management must be an accomplice in the commission of the crime or the one who permitted or directed the act. (e.g., Greece), whereas other legislations – generally those of Common law – operate on the basis of the attribution of liability rather than on the assumption that the legal person itself can commit the crime.

In the case of the Hungarian legislation, the rule on liability provides expressly for three “types of criminal “measure” applicable to legal persons under the Act: dissolution (compulsory winding-up), restriction of the legal person's activities, and fines. Forfeiture of property, a “traditional measure” in the Criminal Code, may also be applied. However, neither the Act, nor any other law contains any provisions about alternative dispute settlements concerning the legal persons' criminal liability.”

Other Member States (Austria, Germany, Italy) have introduced a retained administrative liability, according to which the responsibility of the legal person is regarded as an incidental consequence of the offence committed by a natural person being in a senior or chief management position within the legal person's structure carrying out activities of representation, administration or management of the corporation or of one of its units. In such cases, generally, the legal person is liable only if the offence

was committed in its interest and to its advantage. Furthermore, liability is not provided under the criminal code but under specific legislation.

It is interesting to note that, in Spain legal persons may be sanctioned with the prohibition to negotiate contracts and agreements with public entities and public administrations. Nonetheless, this is considered only as a consequence of the penalty applicable to the natural person who is the material author of the misconduct and only when the attributability requirements are met.

Serbia (a candidate Country for accession) issued a very interesting act on the criminal liability of legal entities according to which the latter shall be responsible for a criminal offence committed by the person in charge with the aim of acquiring an advantage for the legal entity. The act provides security and monitoring measures and sets the legal consequences of the conviction.

What emerges from the initial information received is that, in principle, the applicability of mediation procedures is not excluded for legal persons; however, it seems rather unlikely that a legal person could participate in, or resort to this kind of procedures, mainly because the crimes for which most of the ADR is applicable are by their nature committed by natural persons. In conclusion, when it comes to liability of legal persons there are little chances for the application of ADR solutions in the reporting States. Hence, there is the need for a deeper harmonization of the rules in this field.

9. Applicable sanctions

Usually, resort to ADR is possible for offences punishable up to three or five years imprisonment. The determining factors for enforceability of ADR procedure are: the evaluation of the seriousness of the conduct, the applicability of mitigating factors, the accused manifest intention to redress the damages and, finally, the personal conditions of the accused.

The principle of proportionality is both a fundamental principle of EU law and a common general principle of Member States. From a criminal law perspective, there is a general criterion for the administration of penalties establishing that punitive measures that restrict personal liberties cannot go beyond what is deemed strictly necessary to safeguard public safety.

Indeed, proportionality is crucial to ADR, since alternative procedures are essentially available only if the culpability of the accused is not considered ‘serious’ and if the impossible conditions or directives suffice to set aside the public interest in criminal prosecution. The principle of proportionality together with that of equity are respected insofar as the authority chooses the most suitable means of settlement, considering that the triggering of ADR is largely referred to the evaluation of the gravity of the violation.

The domestic rules do not always expressly indicate the existence of an obligation to eliminate the consequences caused by the commission of a criminal offence, nor the way to calculate the amount of compensation. However, the analysis of the questionnaire suggests that the agreement that is proposed to the accused should contain an evaluation of all the circumstances considered for justifying the decision on the amount of compensation due.

10. The *ne bis in idem* principle and the overlapping of administrative and criminal procedures

The effect of the ADR decision still remains to be clarified: many answers show that the recourse to diversion methods are not considered as a criminal penalty. The Austrian questionnaire states that “*the diversion methods are considered sanctions but not punishments*” because the procedure does not determine the guilt of the accused person. In this perspective, the acceptance of the diversion may be considered in conflict with the presumption of innocence.

According to the Hungarian reply to the questionnaire: “*The successful mediation process and the termination of the criminal procedure means a final decision on the case, consequently the ne bis in idem principle is applicable*”.

It should be verified which is the status granted to the ADR final decision in the national system concerned, particularly when the decision is issued at the end of a non-judicial procedure. Such a decision may be considered as an impediment to the exercise of prosecution for the same conduct before another jurisdiction.

As a matter of fact, the prohibition of double jeopardy has been at the center of several judgments of the European Court of Justice, but also – outside the EU system – of the European Court of Human Rights. It should be noted that, there is a certain level of ambiguity with regard to the precise conditions under which a dual criminal and administrative proceedings is permissible. The outcomes of a double procedure are potentially unforeseeable. For this reason, it should be considered important to put pressure on the implementation of the *ne bis in idem* which is functional to the protection of the other fundamental rights of the accused in an ADR procedure.

The Belgian questionnaire states that the domestic system: “[E]nsures that an overlap between administrative and criminal proceedings is avoided; the tax authorities assess the opportunity of a criminal prosecution making a distinction between simple and complex fraud case; the simpler cases are dealt with by the tax authorities, the complex ones are tried by the criminal court. However, one of the conditions to close a transaction is the compensation of the tax authorities for the damage caused. In this regard, a small overlap can be possible”.

Now, if we consider that in the case of offences falling within the competence of EPPO, the transnational nature of the violations could lead to a competition between several national judicial authorities, it could happen that the same conduct subject to the Belgian administrative jurisdiction – and thus excluding the national criminal one - may also be prosecuted in another State who has jurisdiction over the same case.

In other Member States the possibility of double track exists in practice, provided that the two procedures (criminal and administrative) are complementary and pursue the protection of distinct legal interests.

11. Conclusion

The present study undoubtedly succeeded in collecting the applicable legislation on ADR in the Member States and in providing reliable and verified information on their applicability in relation to the offences falling within the competence of EPPO, in particular with regard to the implementation of the PIF European legislation.

However, it should be stressed that on the basis of the analysis’ outcome of the specific responses to the distributed questionnaire there are not enough elements to elaborate basic common elements in relation to the execution of alternative solution agreements. It seems necessary to better highlight the distinction between the product or proceeds of the crime, on the one side, and the compensation of damage, on the other. Notably, the first element is compulsorily subject to seizure or confiscation under certain criminal laws, whereas the second is related to the amount of the damage produced and must be paid by the offender to the injured party. Now it should be noted that, this aspect is not fully clarified when it comes to the comparison among different legal systems. There are indeed further differences that concern reparation, which is perceived as a service that should restore the social balance broken by the commission of the crime. The last section of the answers to the questionnaire highlights some criticalities that make it impossible to assess the status of all the national legislations examined on this point.

Furthermore, it must be stressed that the execution phase may have different characteristics depending on the type of ADR applied. If ADR takes place in the context of a criminal proceeding, it will follow the rules and pace provided for by the code of criminal procedure of the State concerned. But if ADR takes place in the exercise of the repressive powers of a specialized administrative authority, then it will follow different rules. Finally, if ADR is a completely out-of-court procedure, the boundaries of the action and the terms of execution are not always clear.



The participants in the questionnaire did not provide national statistics on the successful recovery of the defrauded amounts obtained on the basis of law enforcement actions to protect European funds. It should be concluded that, probably States do not collect and process this type of information, or they prefer not to make those data public.

In conclusion, we are aware that this study is only the first step towards the elaboration of an harmonized alternative procedure for the EPPO. As it has been outlined in the previous paragraphs, there are still many differences among the domestic legal systems.

As a matter of fact, the rationale of ADR procedures is to offer a valid reparation to the victim. Consequently, a radical change in perspective is necessary before we can think of applying ADR procedures outside the realm of the domestic rules of criminal procedure and further develop ADR mechanisms in relation to the prosecution and punishment of offences affecting EU financial interests. There is a risk that the public opinion could perceive ADR as a measure adopted in favour of those who have violated the rules and upset the social balance and reliability of the markets. Hence, we recommend that the main focus of a legislative intervention would be focussed on the need for recovery of the defrauded amounts.

EPPO may be empowered to propose the recourse to ADR and to formulate a settlement or mediation agreement, in accordance to national laws. In this perspective, a future normative proposal at the EU level should determine the competent authority and its powers as well as the consequences of the enforcement of the ADR decision in the national jurisdiction concerned.



ANNEX I

QUESTIONNAIRE

Table of Contents:

1. Legislation
2. Competent Authority
3. Defendant
4. Legal persons
5. Procedure
6. Sanctions
7. Execution of restorative measures
8. Additional info on reforms dealing with diversion, mediation and restorative procedures

1. LEGISLATION

1.1. Preliminarmente vogliate precisare se nell'ordinamento esaminato vige il principio di obbligatorietà dell'azione penale

1.1. To start with please indicate which principle for prosecution is applied in the legal system under examination:

- A) mandatory prosecution B) opportunity principle (discretionary prosecution)

1.2. L'ordinamento giuridico considerato prevede una procedura semplificata o una risoluzione extragiudiziale come mezzo alternativo per la risoluzione delle controversie?

1.2. Does the examined legal system provide for a simplified procedure or a non-jurisdictional settlement as an alternative means for dispute resolution?

Yes

No

1.3. Si prega d'indicare le norme applicabili (fornirne il testo, se disponibile, in inglese o in francese)

1.3. Please specify the applicable legislation (provide text in English or French, if available)

1.4. Qual è la natura di questa procedura (amministrativa, penale, fiscale ...)?

1.4. What is the nature of the procedure? (e.g. criminal, administrative, fiscal..?)

Please specify if there are also administrative/fiscal procedures which may, at certain conditions, trigger a criminal proceeding – and if the alternative settlement is applicable also to cases diverting the criminal proceeding into a more swift, different kind of procedure

1.5. Per quali tipi d'infrazione/reato è ammessa la procedura alternativa?

1.5. For what types of violations is the alternative procedure allowed?



In case the offence falls within the EPPO's competence, please give the definition of the type of offence - and highlight whether or not is there any difference in relation to the definition(s) provided for by EU law.

1.6. La procedura alternativa può essere applicata in caso di recidiva?

1.6. Is alternative settlement procedure applicable in case of reiteration of the offence /recidivism? Is there any condition limiting the access to it?

1.7. Nel caso ne sia esclusa l'applicazione, quale trattamento è riservato ai casi di recidiva?

1.7. In case alternative settlement is precluded, which are the consequences of the reiteration of the offence?

2. COMPETENT AUTHORITY

2.1. Qual è l'autorità competente per la procedura alternativa?

2.1. Which authority has the competence for the alternative settlement procedure? Please report on the powers and competence of such Authority.

2.2. C'è un' autorità che attiva la procedura (chiede l'accesso, propone all'accusato la procedura alternativa) diversa da quella che ha la competenza per stabilire le condizioni per ricorrere alla procedura alternativa?

2.2. Is there an Authority that triggers the settlement procedure (requests access to it, proposes the alternative settlement to the accused) other than the one that has the competence to establish the conditions to resort to the alternative settlement procedure?

3. DEFENDANT

3.1 Nella procedura l'indagato partecipa personalmente, è rappresentato da un difensore, un delegato, un mandatario, altro?

3.1. Does the accused personally take part in the alternative procedure? Does he/she have the right to legal counselling (lawyer, counsel, representative, or some kind of authorised agent)?

3.2. Nel vostro sistema penale, prevedendo la possibilità che più persone partecipino alla commissione della medesima violazione, è applicabile una procedura alternativa? Con quali effetti sugli altri soggetti presunti responsabili?

3.2. When multiple individuals jointly perpetrate the same violation, is the alternative procedure applicable even though only some of the accused request access to that procedure? Are there any particular consequences for the other persons under investigation who do not opt for the alternative procedure?

4. LEGAL PERSONS

4.1 E' prevista la responsabilità diretta della persona giuridica? Essa ha la possibilità di aderire ad una procedura alternativa, di rendersi attivamente partecipe di un programma ripartivo?

4.1. Does the national legislation rule on legal persons' liability? Does it include the possibility for the legal person to resort to, or participate in alternative dispute settlements and be actively part of a reparation programme?

4.2. La responsabilità della persona giuridica è distinta dalla responsabilità penale delle persone che la rappresentano? Anche nell'accesso e svolgimento della procedura alternativa?

4.2. Is the criminal responsibility of the legal person separate from the criminal responsibility of its representative(s)? Does the separation between the legal person and its representatives in terms of criminal responsibility also include a separate access to, and distinct procedure for the settlement or alternative dispute resolution by that legal person?

5. PROCEDURE

5.1. Quali sono le condizioni di ammissione alla procedura alternativa? (es.: tipo di condotta, lista di reati indicati un dato capitolo del codice penale o pena max prevista, non contestazione di aggravanti, ecc..)

5.1. Please describe which are the preconditions for admissibility to the alternative procedure and report on the rules of procedure related to the trigger mechanism.

5.2. In che momento della procedura può intervenire questa opzione alternativa: prima, durante, dopo l'esercizio dell'azione penale; esiste una preclusione di fase?

5.2. At what stage of the proceeding can the decision to resort to an alternative settlement be made: a) during investigation; b) at the pre-trial hearing; c) at trial opening; d) during trial; e) at another time/stage (specify).

5.3. L'accesso alla procedura alternativa è rimesso alla discrezionalità dell'Autorità giudiziaria competente? Può essere richiesto dall'interessato? costituisce un suo diritto? l'eventuale rigetto di una richiesta in tal senso deve essere motivata? Il diniego può essere impugnato?

5.3. Is access to the alternative procedure left to the discretionary decision of the competent judicial authority?

Can access to the alternative procedure be requested by the person involved in the offence? Does that person have the right to request the alternative procedure?

5.4. Con quali mezzi il convenuto viene informato dell'avvio di un'indagine sul suo comportamento e della possibilità di ricorrere ad un procedimento alternativo?

5.4. By which means is the defendant informed of the initiation of an investigation into his conduct and the possibility of resorting to an alternative procedure?

5.5. Come viene attivata la procedura alternativa: su richiesta del convenuto / su proposta dell'autorità procedente?

5.5. Please describe how the alternative procedure is triggered: by a request from the accused/ by a proposal from the proceeding authority?



5.6. L'autorità competente dispone di un potere discrezionale di iniziativa nel proporre la transazione alternativa al convenuto?

5.6. Does the competent authority have a discretionary power of initiative in proposing the alternative settlement to the defendant?

5.7. La richiesta di accesso alla procedura alternativa può essere rifiutata? Nel caso, per quali motivi?

5.7. Can a request to resort to the alternative procedure be rejected? If so, on what grounds?

5.8. La decisione di rigetto dev'essere motivata?

5.8. Does the decision of rejection need to be justified or motivated?

5.9. E' previsto qualche rimedio per il rigetto?

5.9. Is there any legal remedy in case of rejection?

5.10. Che effetti ha l'apertura di questa procedura sull'azione penale (sospensione, conclusione, altro?)

5.10. What effects does the opening of the alternative procedure have on criminal prosecution (suspension, conclusion, other) ? (e.g. the "main" prosecution is suspended (if so, for how long) or is finally closed (if so, what kind of closure decision, which effects), or other...(please describe).

5.11. Quali elementi vengono forniti per l'adozione della decisione? (atti d'indagine, rapporti, relazioni di autorità investigative, documenti, testimonianze, altro..)

5.11. What elements and allegations must be presented to the authority to allow the resort to the alternative procedure? (investigation results, reports from authorities, other)

5.12. La difesa ha accesso a questa documentazione? A partire da quale momento?

5.12. Are such elements and allegations disclosed to the defendant? If so, at which stage does the accused have access to allegation documentation against him?

5.13. La difesa ha accesso a tutte le prove d'accusa senza limitazioni?

5.13. Does the defendant have access to all allegations without limitation?

5.14. Che contributo può dare la difesa in relazione alla presentazione degli elementi utili alla decisione di applicazione della procedura alternativa?

Il convenuto ha il diritto di presentare argomenti di discarico, prove, documenti a sostegno della decisione di ricorrere alla procedura alternativa?

5.14. What contribution can the defendant give in relation to the presentation of the elements in favour of the decision to resort to the alternative procedure?

Is the defendant entitled to present discharge arguments, evidence, documents to support the decision to resort to the alternative procedure?

5.15. Le regole della procedura prevedono un contraddittorio? Si prega di specificare in che modo esso è garantito

5.15. Do the rules of procedure grant an adversarial process during the alternative settlement?
Please give further explanation on how the adversarial process principle is respected.

5.16. La procedura alternativa può basarsi su un accordo a compiere alcune attività riparatorie o risarcitorie? Se sì a quali condizioni?

5.16. Can the alternative procedure be based on an agreement to perform some restoration or reparation activities? (e.g. refunding, reparation of damage, modification of corporate control, etc..) If so, under which conditions?

6. SANCTIONS

6.1. Quali sono i criteri per la determinazione del contenuto sanzionatorio?

E' prevista la valutazione del grado di partecipazione, delle circostanze, della gravità del fatto?

Sono rispettati il principio di proporzionalità e di equità?

6.1. What criteria are considered for the determination of the sanctions? (aggravating/mitigating factors; gravity of offence; circumstances of the case)

Are the principles of proportionality and equity respected?

6.2. Quali sono le regole finanziarie applicate per la definizione dell'importo riparatorio? Esiste una valutazione proporzionale al danno causato?

6.2. What are the financial rules applicable to determine the amount of reparation? Are proportionality criteria based on the evaluation of the damage caused applicable?

6.3. Esiste un obbligo di adesione alla proposta di definizione alternativa del procedimento?

6.3. Is there an obligation to accept the proposed alternative settlement?

6.4. Il contravventore può rifiutarsi di aderire ad una proposta di procedura alternativa? Con quali conseguenze?

6.4. Does the defendant have the right to refuse the proposed settlement arrangement?

Please describe briefly the consequences related to the defendant's refusal to accept the proposed alternative settlement:

6.5. La decisione contenente l'adozione delle misure sanzionatorie/riparatorie può essere: annullata, modificata, impugnata?

6.5. Can the decision regarding the applicable sanctions/ restorative measures be: nullified, appealed, modified?

6.6. In caso affermativo, chi è legittimato a impugnarla e che tipo di impugnazione è prevista? Che procedura si apre a seguito di una impugnazione?

6.6. If so, who has the right to appeal?

Please, briefly describe the type of appeal procedure and its effects.

6.7. E' possibile una sovrapposizione fra le diverse azioni di accertamento della responsabilità, per esempio amministrativa e penale? L'applicazione di una procedura alternativa che effetti avrebbe?

6.7. Is an overlapping of two different procedures possible (e.g. administrative and criminal)?

In this case, what are the effects of the application of the alternative settlement procedure?

6.8. Quali sono gli effetti della conclusione di una procedura alternativa:

- A) per il contravventore (determinazione della responsabilità)
- B) per l'autorità competente a perseguire le violazioni di legge
- C) per terzi soggetti
- D) in relazione all'azione penale
- E) in relazione all'applicazione di sanzioni di natura differente

- 6.8.** What are the effects of the conclusion of the alternative dispute resolution procedure for:
- A) the defendant (does the procedure establish his liability?)
 - B) the authority prosecuting the violation
 - C) third parties (other suspects/defendants, damaged parties, etc..)
 - D) the criminal prosecution
 - E) the application of sanctions of a different nature

6.9. La conclusione di una procedura alternativa costituisce una decisione finale di una vicenda giudiziaria (con applicabilità del *ne bis in idem*)? Gli obblighi e i requisiti della procedura alternativa sono considerati sanzioni?

6.9. Does the conclusion of the alternative procedure represent a final decision on the case (making the *ne bis in idem* principle applicable)?

Are the obligations and requirements of the alternative procedure regarded as sanctions?

6.10. Il contravventore risulta, in seguito, iscritto in un registro di autori di frode? con quali effetti e per quanto tempo?

6.10. At the end of the alternative procedure, is the name of the offender recorded in the list of fraud-offenders? If so, what are the consequences and what is the duration of the record?

6.11. La procedura dovrebbe essere applicabile senza distinzione a tutti i cittadini dell'UE. Esiste una disciplina specifica per i non residenti nello Stato procedente

6.11. The procedure should be applied to all European citizens without discrimination. Is there a specific discipline that applies to non-residents of the proceeding State?

6.12. Quali sono le regole riguardanti:

- a) la cooperazione giudiziaria;
- b) la procedura di consegna;
- c) l'esecuzione della decisione emessa da altro Stato membro;
- d) i motivi di rifiuto dell'esecuzione

6.12. Please indicate which are the rules governing:

- a) judicial cooperation;
- b) surrender;
- c) enforcement of the decision issued by another Member State;
- d) the grounds for non-enforcement of the decision in the requested State

6.13. Quali effetti ha l'applicazione della procedura alternativa in relazione a:

- a) deflazione dell'attività giudiziaria;
- b) rapidità e svolgimento della procedura-termini di soluzione della vicenda giudiziaria;
- c) recupero degli importi oggetto di frode (con particolare riferimento all'impatto finanziario, in relazione agli importi di frode accertati);

- d) applicazione di sanzioni accessorie come inibizione dalla partecipazione a gare, appalti, contratti con la PA, ecc..
- e) altro.

6.13. Please explain which are the effects of the alternative dispute resolution procedure with regard to:

- a) Deflation of judicial activities;
- b) Speediness of the procedure;
- c) Recovery of the defrauded monies (with particular reference to the financial impact of the assessed defrauded amounts);
- d) Application of accessory sanctions (e.g. preventing participation to public procurements or public contracts);
- e) Other .

7. EXECUTION OF RESTORATIVE MEASURES

7.1. Quale autorità è competente a recuperare i fondi sottratti? La restituzione degli importi oggetto di frode è parte della procedura alternativa o è oggetto di una procedura autonoma?

7.1. Which body is authorised to recover the defrauded monies ?

Does the restitution of the defrauded monies form part of the alternative procedure or is it part of an independent/ autonomous proceeding?

7.2. La restituzione delle somme oggetto di frode è obbligatoria? Si fonda su un'esecuzione volontaria o può essere forzata? Sono previsti interessi moratori? Come sono calcolati?

7.2. Is the restitution of the defrauded monies mandatory? Is restitution possible on a voluntary basis only, or can it be enforced by the authority?

Are default interests considered in the case of delay in restitution? If so, how are they calculated?

7.3. Esiste un termine di prescrizione per il recupero delle somme oggetto di frode?

7.3. Is there any statute of limitation applicable to the recovery of the defrauded monies

7.4. Vogliate riferire sul tasso di recupero degli importi frodati in relazione agli importi individuati sulla base delle frodi denunciate

7.4. Please indicate the percentage of recovered sums in relation to the total amount due for fraud cases that have been prosecuted

8. ADDITIONAL INFO ON REFORMS DEALING WITH DIVERSION, MEDIATION AND RESTORATIVE PROCEDURES

8.1. With regard to the outcomes of the alternative dispute resolution, indicate what kind of justice it represents more:

a) retributive justice

b) restorative justice

8.2. What are the pros and cons of alternative dispute resolution as compared to the “traditional” judicial proceedings?

8.3. Please indicate (if known) cases in which domestic judicial decisions have addressed the compatibility with EU law on domestic diversion, restorative and mediation procedures. Notably, has a



conflict with EU primary law (Article 325 TFEU, Article 47 of the Charter of Fundamental Rights) or EU derivative law ever been raised?

8.4. Please describe if in the examined legal system there is any proposal for legislative reform applicable to diversion/ mediation and restorative procedures.



ANNEX II

DEFINITIONS AND USEFUL TERMS

Table of contents:

1. Alternative Dispute resolution (ADR)
2. Diversion
3. Mediation
4. Restorative Justice
5. Legal Person
6. Union's financial interests
7. PIF (Protection of the Union's financial interests)
8. Fraud
9. Serious offences against the common system of value added tax (VAT)

1. Alternative Dispute Resolution (ADR)

Alternative dispute resolution (ADR) is a procedure for the out-of court resolution of disputes. It refers to any method of resolving disputes without litigation. It includes all those dispute resolution procedures and techniques, such as mediation, arbitration and negotiations, that may serve as a means for the disputing parties to reach a compromise, with or without the assistance of a third party who leads the proceedings ensuring confidentiality. ADR is based on the idea that opposing parties wish to achieve the best result by controlling the process and the solution themselves. The essence of ADR procedures is the voluntary access to it by the disputing parties. The important distinction between ADR and litigation is that ADR focuses on the interests of the parties rather than on their judiciable rights and seeks to settle the dispute in such a way that the opposing interests of each party are satisfied.

2. Diversion

In criminal justice, Diversion means a variety of programs that implement strategies seeking to avoid the formal processing of an offender by the criminal justice system. In particular, it is a system for giving a chance for a first- time criminal defendant in lesser crimes to perform community service, make restitution for damage due to the crime, obtain treatment for alcohol or drug problems and/or counselling for antisocial or mentally unstable conduct. If the defendant cooperates and the diversion results in progress, the charges eventually may be dismissed. Usually diversion may not be granted for a second offense.

3. Mediation

According to article 3 of Dir.(EU) 2008/52, "Mediation" means a structured process, however named or referred to, whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator. This process may be initiated by the parties or suggested or ordered by a court or prescribed by the law of a Member State.



It includes mediation conducted by a judge who is not responsible for any judicial proceedings concerning the dispute in question. It excludes attempts made by the court or the judge seized to settle a dispute in the course of judicial proceedings concerning the dispute in question

4. Restorative Justice

Restorative justice is a way of responding to criminal behavior that emphasizes the reparation of the harm caused by the crime. It should be primarily oriented towards addressing and repairing the harm which crime causes to individuals and the society. Generally, it involves some form of mediation and conflict resolution and often results in apologies, reparation, compensation and community service. Restorative justice often takes the form of a dialogue (whether direct or indirect) between the victim and the offender, and can also involve, where appropriate, other persons directly or indirectly affected by a crime. The Recommendation on Mediation in Penal Matters Recommendation (CM/Rec(2018)8) concerning restorative justice in criminal matters, adopted by the Committee of Ministers of the Council of Europe on 3 October 2018, defines it as: “any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the crime through the help of an impartial third party”.

5. Legal person

Under Dir. (EU) 2017/1371, legal person is an entity having legal personality under the applicable law, except for States or public bodies in the exercise of State authority and for public international organisations.

6. Protection of Union’s financial interests

Under Dir. (EU) 2017/1371, the expression “Union's financial interests” means all revenues, expenditure and assets covered by, acquired through, or due to: the EU budget; (ii) the budgets of the EU institutions, bodies, offices and agencies established pursuant to the Treaties or budgets directly or indirectly managed and monitored by them.

According to Dir. (EU) 2017/1371, the protection of the Union’s financial interests concerns not only the management of budget appropriations but extends to all measures which negatively affect or which threaten to negatively affect its assets and those of the Member States, to the extent that those measures are of relevance to Union policies

7. Fraud

Fraud falling within the scope of Dir. (EU) 2017/1371 is a fraudulent conduct with respect to revenues, expenditure and assets at the expense of the general budget of the European Union, including financial operations such as borrowing and lending activities.

Council Directive 2006/112/EC on the common system of value added tax (VAT) qualifies as “serious offences” against the common system of value added tax, the most serious forms of VAT fraud, in particular carousel fraud, VAT fraud through missing traders and VAT fraud committed with a criminal organisation which causes serious threats to the common VAT system and thus to the Union budget.

Offences against the common VAT system are considered “serious” when they are connected with the territory of two or more Member States, result from a fraudulent scheme whereby those offences are committed in a structured way with the aim of taking undue advantage of the common VAT system and the total damage caused by the offences is at least of EUR 10 000 000. The notion of total damage refers



to the estimated damage that results from the entire fraud scheme, both to the financial interests of the member States concerned and to the Union, excluding interest and penalties.
